The Environment Agency made representations on policy CS14 and expressed soundness concerns on specific and general elements of it. We commented that a core strategy style policy would struggle to provide a sufficiently robust and helpful policy basis for sustainable growth, whilst enabling an efficient, predictable development management process. This task has been made particularly challenging with the timing of a dramatically more succinct national planning policy context in respect of climate change, flood risk, water quality and water resources. The NPPF looks to local plans to fill voids and define the approach with regard to local circumstances. The proposed submission did not do that in our view.

Supplementary Planning Document

Since the proposed submission Fenland DC has responded positively to incorporating many of our suggested changes as modifications, the most significant of which is the intended production of a Supplementary Planning Document. We support this initiative as a means of helping developers, FDC planners and water management partners understand how to design and deliver sustainable development in water and flood risk terms. With much set to change in the industry with the Water and Natural Environment white papers, and through enactment of SUDS approving bodies[1] (SABs) scheduled for April 2014, a SPD could capture and adapt to this context successfully, and in a way that is not open to the Local Plan, given timing.

In this context we have advocated pragmatic improvements to the plan to install the necessary policy hooks to make a SPD work as guidance, careful to avoid future temptations to usurp higher tier local plan policy. We set these out in our proposed submission representations, and below in answer to Matter questions.

Key partners involved in delivering a flood and water management SPD have voiced support for such a document, so we are confident that the necessary commitment and value would be allocated to making it happen.

We consider that the SPD is such a vital soundness element of delivering flood risk, climate change and water management, that any non-delivery of the SPD (and related policies CS14 and CS16) would, in our view, justify a review of the plan. Chapter 7 can address this through listing the SPD as a delivery indicator.

We also made representations in respect of CS16 that we regard as indivisible from parts of CS14 and any related SPD. We would welcome the opportunity to explore these with related parties at a supplementary session at the EiP.

[1] In fulfilment of the Flood and Water Management Act 2010

Fenland Local Plan Matter 14: Climate change and flooding

Environment Agency representations

Q1. Is Policy CS14 Part B requirement for sequential tests for all developments in Flood Zone 2 & 3 consistent with the NPPF?

No. The Environment Agency's reading of Part B is that its intention is probably to mimic NPPF. However the plan is not clear and on literal interpretation does capture all development. Given the extent of flood zones 2 and 3 in Fenland, we fear this could have burdensome consequences for limited outcomes.

In our view, a sequential approach (i.e. looking at all flooding types, and focussing on relative risks and hazards) is significantly more appropriate to Fenland than an extensive flood zone based sequential test. So development would be prioritised according to areas of actual risk, based on a range of information derived from the SFRA's, hazard and inundation mapping (where available) and Catchment Flood Management Plans – as listed in Part B, and recommended in our consultation reply to CS14. The risks to people and property can then be managed according to the vulnerability of the land use – something set out in significant detail in the PPS25 Good Practice Guide. This approach is indivisible from the exception test because the actual and residual risks need identifying and managing.

So for example, in Fenland District, flood zone 3 is extensive and this tells us little more of practical use. However, within flood zone 3 there are significant areas that rely on both flood management assets for probabilistic protection, and on emergency services to rescue communities from flooding caused by asset failure or extreme events. In these areas we believe that new development should be avoided where possible, in favour of areas at lower risk, with defences or extreme events in play. Where development in more hazardous areas is unavoidable, we advise that this is on an exceptional basis, and provision is made for safe refuge and egress as part of any exception test.

In our view there is significant scope for a flooding and water management SPD to define what is meant by a risk based sequential test taking account of actual and residual risks shown on the Environment Agency's flood map for planning, and other Fluvial or Tidal Hazard Maps. The SPD could define how an exception test ensures related standards of safety, independent of reliance on emergency services.

A Way Forward

Our proposed solution is to insert the words

Development proposals should adopt a sequential approach to flood risk from all forms of flooding. Development ~~in flood zones 2 and 3~~ in areas known to be at risk from any form of flooding will only be permitted following:

'(a) the successful completion of a risk based sequential test, having regard to actual and residual flood risks'

And under '(d) ...through the submission of a site specific flood risk assessment, demonstrating appropriate flood risk and safety management measures and a positive approach to reducing risks overall without reliance on emergency services.'

Notes: The words 'risk based' enables decisions to be made about what constitutes vulnerable development in terms of size and land use sensitivity, and significant risks worthy of avoidance. We deliberately use the plural, risk**s**, because drainage can create very significant risks during tide or flood lock.

Tidal elements and climate change both add to the scale of consequences that need to be planned for by extreme tidal events now, or with climate change.

Q2. Are the requirements set out in Policy CS14, Part A that are aimed at minimizing resource consumption above and beyond what is required by Building Regulations and / or other standard planning policies justified locally?

The Environment Agency made representations at proposed submission stage to support our soundness concerns on the issue of water resource availability. We erroneously made this under CS16, instead of CS14 where the plan deals with it.

We have no remit for energy consumption, but recognise that the Code for Sustainable Homes encompasses this alongside water. Our comments on the Plan's Code levels relate to water only. We set out the Code's minimum water consumption standards in Table 1.

The Fenland Water Cycle Strategy shows that the plan's 'business as usual' water consumption (125 litres/person/day) is not matched by water availability over the plan period. 'Business as usual' would not leave any future buffer for growth before 2031, depending on growth delivery in Fenland and other nearby Districts. This would make subsequent growth aspirations even harder to achieve.

In our representations we are concerned that the plan only requires Code Level 2 by negotiation, and without the necessary 10% demand reduction set out in the WCS. Negotiation opens the possibility of potentially higher rates of water consumption that would have a greater and earlier impact on water availability in and beyond Fenland. Thus, as it stands, may not be seen as dutifully cooperating or working within sustainable environmental limits during the plan period. We are not aware of any new evidence base that justifies water consumption as low as Code level 2.

The Fenland Water Cycle Strategy (FWCS) sets out the evidence for water consumption standards in the sub-region, and recommends that, as a minimum, Code level 1 or 2 water consumption design standards (120 litres per person per day) are adopted, PLUS a target of 10% reduction in existing demand through retrofitting and other consumer behaviour measures. However, the 10% demand reduction (e.g. by retrofit) is not proposed, and in any event we find is unproven as a planning policy tool.

We therefore advise that the plan requires water consumption to be at Code level 2 equivalent of 105 l/p/d, because this would add a buffer to a limited take up of the 10% efficiency and consumer behaviour actions assumed in the WCS 'low consumption' scenario.

Table 1: Compulsory aspects of the Code for Sustainable Homes (CSH) and points awarded.

CSH Rating	Internal Water use (maximum allowable)	
	Consumption	CSH Points
1	120 l/p/d	1.5
2	120 l/p/d	1.5
3	105 l/p/d	4.5
4	105 l/p/d	4.5
5	80 l/p/d	7.5
6	80 l/p/d	7.5

We recommend amending the plan to require as a minimum, Code Level 2 equivalent water efficiency standards (120 litres/person/day) as part of (e) in Part A:

(e) The increasing need to use water more efficiently with a minimum Code Level 2 equivalent

Level 3 (105 litres/person/day can be achieved by negotiation. Plan monitoring could assess the uptake of Level 3 equivalents. Amend Part (A) third bullet:

- For dwellings, to achieve water consumption at a minimum Level ~~2~~ 3 of the Code for Sustainable Homes

Retrofitting could be ensured through adding to the last bullet in Part A '..reducing energy and water use elsewhere, such as through the provision of free energy and water saving measures...'.

A low take-up would be unsustainable in our view and could necessitate a plan review. Chapter 7 would need to be updated to monitor this:

Page 89, new bullet after '...by 2031.'

- Number of major permissions granted without controls on water consumption above Building Regulations – target: none following water management SPD production

The Water Cycle Strategy has been supplemented by the draft Anglian Water (AW) Water Resource Management Plan (WRMP) which AW will refer to in evidence.

Q3. Where surface water on a site can be discharged into Internal Drainage Board drainage systems there would be a conflict with Policy CS14, Part B. Would this conflict with the aims and objectives of the policy?

We are not aware of a conflict provided that, in appropriate situations, discussions take place with the IDB so that surface water is attenuated prior to being discharged at an agreed rate into IDB systems. IDB's are best placed to advise on this, with input from discussions with the Lead Local Flood Authority who are set to have SUDS approving roles from April 2014. The last paragraph of this Policy part B does point the developer to discuss this with the IDB to take into account their guidance and byelaws. The Environment Agency and the LLFA supports the following amendment:

> (b) appropriate arrangements for ~~dealing with~~ attenuating surface water run-off can be accommodated within the site; and