



FDC/Matter 14

**FENLAND LOCAL PLAN CORE STRATEGY
DEVELOPMENT PLAN DOCUMENT**

EXAMINATION

FENLAND DISTRICT COUNCIL STATEMENT

MATTER 14: CLIMATE CHANGE AND FLOODING

Fenland District Council
Fenland Hall
County Road
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PE15 8NQ

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www.fenland.gov.uk

Fenland District Council Statement in response to Matter 14: Climate Change and Flooding

ISSUES and QUESTIONS

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

The Council acknowledges that as currently written Policy CS 14 Part B requiring the sequential tests for all developments in Flood Zones 2 & 3 is not fully consistent with the NPPF.

The Council accepts that the NPPF requires the sequential approach and test to be used in areas known to be at risk from any form of flooding.

The Council also acknowledges that the NPPF advises that there may be some circumstances when developments are not required to pass the Sequential Test. Specifically these are for individual developments on sites allocated in development plans (which would have had a Sequential Test process undertaken as part of plan preparation), as well as applications for minor developments and changes of use, other than for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.

The Council also acknowledges the importance of using risk based assessments, as well as an understanding of safety matters in assessments.

The Council recognises that the policy should be amended and would suggest that the following changes (highlighted in bold) are made to the second paragraph of Part B of Policy CS14:

“All 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 **(if necessary), having regard to actual and residual flood risks**
- (b) [no change]
- (c) [no change]
- (d) through the submission of a site specific flood risk assessment, demonstrating appropriate flood risk management **and safety** measures and a positive approach to reducing flood risks overall, **and without reliance on emergency services.**”

The words “(if necessary)” have already been proposed (see Proposed Modification MPC/5/002). The other additional words above are a further Proposed Modification MPC/5/006.

The Council considers that these modifications will ensure Part B of Policy CS14 to be consistent with the NPPF.

The Environment Agency has endorsed these modifications, and we understand align with its requests in its Statement on this Q1.

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?

Yes it is. However, as the policy clearly states, only a ‘reasonable contribution’ is required.

First, we explain below why it is justified; and second, we explain what ‘reasonable contribution’ means.

Why it is justified:

The policy requirements are justified, locally, from four angles.

First, the context of Fenland, geographically. As most will no doubt be aware, the Fen landscape (which predominates across most of the district) is characterised by low-lying, flat, high-quality agricultural land. However, this landscape only exists due to the extensive management of the land through flood protection, pumping and (in summer) irrigation. If left to its natural state, the Fen landscape would return to its water-logged, bog status i.e. a ‘fen’ land.

This low lying (below sea level in many parts, up to 2.75m below) is at significant risk to climate change and associated flood consequences, whether fluvial or tidal.

As a matter of principle, therefore, Fenland has ‘much to lose’ should the severe consequences of climate change occur. Indeed, it is highly likely much of Fenland would disappear, as the ability to defend it at a reasonable cost would at some point be unsustainable.

Thus, in principle, along with a handful of other districts in the country (mostly coastal towns), it is fully justified why Fenland Council should make efforts beyond ‘national standards’ to minimise resource consumption to mitigate against the worst effects of climate change.

Second, the socio-economic situation in Fenland. This is on a number of levels, as set out in the first part of Policy CS14.

To illustrate in more detail some of those issues listed in the policy, Fenland is the most fuel poor area of the sub-region. As confirmed in the official FDC Fenland HECA report of March 2013¹, it confirms the following issues:

- A high proportion of solid wall, detached buildings, with 6,335 properties built before 1919 (out of 37,234)
- 8,036 (22%) fail the Decent Homes Standard, whilst 4,370 (12.5%) failed the thermal comfort criteria.
- In 2010, 7,680 fuel poverty households existed (19.2%), way above national and sub-regional levels. Some rural areas are in excess of 30%.
- There are 56 ‘excess winter deaths’ in Fenland, a year (a matter strongly linked to fuel poverty)

Corporately, the Council is committed to improving household energy efficiency to ensure that residents can live independently and comfortably without experiencing the negative effects of cold living conditions such as respiratory illnesses. The Council sees no reason why new development can not play its reasonable part in tackling this issue, by building robust, resource-efficient homes for the future and/or contributing financially to tackling inefficient buildings.

Third is water conservation, with widespread acknowledgement that Fenland, and the East Anglia region overall, suffers (or potentially could suffer) from both extremes – drought in summer, flood in winter. Managing and using our water resource efficiently is therefore an entirely reasonable matter to be addressed in Fenland, via the Fenland Local Plan.

A fourth issues is economic. In comparison with the wider sub-region, Fenland is a low-skilled, low-pay, high-deprived area. However, it’s physical attributes (low lying, flat, sunny) are ideal for harnessing renewable energy, whilst its location close to the nationally recognised Peterborough eco-cluster should be harnessed for driving forward this sector in Fenland. It is not, therefore, unreasonable for the Council to both bolster the local economy, whilst also helping people come

¹ See: <http://www.fenland.gov.uk/CHttpHandler.ashx?id=8194&p=0>

out of deprivation and low pay/skills by facilitating the green economy. Indeed, the Fenland Economic Development Strategy sees the enviro-sector as a key opportunity for the area.

As such, overall, is the policy justified? Yes. The Council is firmly of the opinion that it is not ‘just another council jumping on the green bandwagon’. It not only has much more to lose from climate change (compared with others) it also is genuinely well placed to progress this sector and as such has the opportunity for much to gain. It is therefore an entirely reasonable and justified local policy, subject to the ‘reasonable contribution’ test.

What will be a ‘reasonable contribution’?

The Council accepts that it can not insist, on all developments, a certain standard or requirement. The policy makes this clear. However, it does expect a reasonable contribution.

This suggests two things. First, it suggests that a contribution should only be at level which is viable. It would be ‘unreasonable’, in implementing this policy, if the Council pursued a contribution beyond what was ‘reasonable’ (e.g. if it sought measures which brought a development scheme into the realms of un-viability).

Second, it suggests that the policy is flexible as to what a developer may decide to do in terms of making a contribution. At present, the policy offers some suggestions as to what a developer could do, but is clearly open to other suggestions. However, to assist developers, the Council is pressing ahead with a wider SPD, which, in part, specifically addresses the ‘reasonable contribution’ issue.

At its meeting on 21 November 2013, the Cabinet approved for the purposes of public consultation a draft SPD on ‘Resource Use’. This includes a section which explicitly sets out how a developer could meet the ‘reasonable contribution’ test. As can be seen, the bar is set fairly low. Essentially, a developer needs to achieve ‘10 points’ from a set of options (or negotiate if something is not on the list). The options are wide ranging, with greater points for higher-impact actions. However, to achieve 10 points could be done for very little cost or practical difficulties.

For example, a new house which provides a fruit/vegetable raised bed (3 points), a water butt (3 points) and a bike store (4 points) would achieve the necessary ‘reasonable contribution’ test. The cost of this would be small (£200-300, perhaps), the features would be attractive to the home-buyer (probably recouping the cost through sales), yet would facilitate the potential for significant sustainability benefits (healthy, local food; water saving; reduced water run-off risk; easy access to cycle-use; etc).

Thus, the Council is making it absolutely clear that it is not expecting the latest high-tech and costly technology; it is simply asking for small-scale, cheap, but highly effective measures to be built in to new developments from the start.

The Council, therefore, believes that, in preparing CS14 (and associated SPD) it is acting responsibly, appropriately and reasonably. It is confident that the policy is fully justified.

However, in order to update the Policy, a modification to the policy is proposed (Proposed Modification MPC/5/007). This modification will remove the list of suggested actions in the middle of Part (A) of the policy, and replace it with the paragraph as follows:

“To meet this policy requirement will be a matter for negotiation. However, in order to assist developers in meeting the ‘reasonable contribution’ test, the Council will prepare and maintain a resource use based SPD which will set out a cost-effective and viable set of options for the developer.”

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?

Part B of Policy CS14 requires a drainage strategy to be submitted for all relevant developments as well as the use of Sustainable Drainage Systems (SuDS) for new developments. This is to ensure that surface water is managed in a sustainable way to reduce the risk of flooding both in the immediate vicinity, elsewhere in the area, and in the receiving water course. This involves ensuring that rainwater can drain naturally rather than entering drainage pipes at the earliest opportunity which can lead to flooding events, particularly at times of heavy rainfall.

A number of organisations are responsible for the initial network of pipes and ditches through which the water passes, but ultimately in Fenland it discharges into watercourses which are the responsibility of an Internal Drainage Board (IDB) or the Environment Agency (EA).

The policy therefore seeks to ensure that surface water from new developments is managed in a more controlled way than at present. The Council recognises that water will still ultimately drain to an IDB or an EA watercourse but considers it important that this happens in way which reduces flood risk wherever possible. The policy does not seek to ensure that all rainwater drains naturally within the site, but rather that it can drain in a more managed way by mimicking nature through a slower drainage process, thereby reducing the risk of flooding overall.

In Fenland the use of SuDS is complicated by two factors: the predominantly flat topography, and the underlying geology. The flat topography means that rainwater flows are an important tool for flushing through sediments which may have built up in the piped network. Therefore it is important that SuDS do not lead to a situation where the network becomes blocked through underuse which itself can increase the risk of flooding. The underlying geology in parts of the district means that attenuation rather than infiltration is likely to be the most appropriate SuDS methods in many new developments. The Council does though consider that the use of SuDS methods in Fenland is possible in most instances and has the potential to bring many benefits to the district.

The EA as well as both IDBs which cover the district (the Middle Level Commissioners and the North Level IDB) are keen to ensure that new developments do not increase the risk of flooding of their watercourses. They are supportive of managing drainage from sites in a sustainable way and the use of SuDS in appropriate circumstances. They recognise the environmental, social and recreational value that additional green/blue infrastructure to cope with surface water drainage can bring to the area. The Middle Level Commissioners provided very helpful input into the formulation of the policy as confirmed by their representation of 10th April 2013 (R100). The EA are also supportive of the policy in principle, and whilst it has raised a number of issues in its latest representation on the Core Strategy, FDC considers that these are best dealt with in an SPD as indicated in modification MPC/5/004 of the Schedule of Suggested Changes (CD002a). The EA has confirmed that the production of an SPD to provide more details on flood risk and drainage issues would be an appropriate way to proceed. However, a further new modification is proposed (Proposed Modification MPC/7/008) which stipulates in the monitoring section for Policy CS14 that, under the box 'how will the policy be implemented', a new paragraph which states 'Preparation of Resource Use SPD and a Flood and Water SPD', and in the box 'how will the effectiveness...', a new bullet point 'Resource Use SPD and Flood and Water SPD adopted by end of 2014/15'.

The policy therefore seeks to ensure that there is an appropriate balance between more sustainable drainage and the need to work with a topography which relies on rainfall to assist in the maintenance of the existing system, as well as the geology of large parts of the district which precludes certain types of SuDS.

FDC accepts that the policy as currently worded may result in potential conflict and for clarity would suggest that it is amended (Propose Modification MPC/5/008) in the following way (in bold):

Third and fourth paragraphs of CS14 (Part B) proposed to be amended to read:

“In addition to the requirements of the NPPF and associated technical guide, all applications for relevant developments must include a drainage strategy to demonstrate that:

- (a) suitable consideration has been given to surface water drainage;
- (b) appropriate arrangements for ~~dealing with~~ **attenuating** surface water run-off can be accommodated within the site; and
- (c) issues of ownership and maintenance are addressed.

The use of Sustainable Drainage Systems (SuDS) will be required to ensure that runoff from the site (post development) is to Greenfield runoff rates for all previously undeveloped sites and for developed sites (where feasible). This should include sufficient area within the site to accommodate SuDS **for the short term management of surface water drainage** and where appropriate link to green / blue infrastructure to exploit opportunities for biodiversity, environmental, heritage, social and recreational enhancement and value. Schemes should complement the aims of the Cambridgeshire Green Infrastructure Strategy but should be retained and maintained primarily for the purpose for which they were designed, whilst being sensitive to the multi-functional benefits they can provide.”

The Council considers that these changes should remove the apparent conflict between accommodating surface water drainage within the site and its ultimate discharge to an IDB or EA watercourse. The changes should mean that the way surface water drainage from new developments is managed is effective and sustainable, and the aims and objectives of the policy are fully met.