



**FDC/Matter 16**

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

**EXAMINATION**

**FENLAND DISTRICT COUNCIL STATEMENT**

**MATTER 16: POLLUTION, LAND CONTAMINATION AND  
GROUNDWATER**

**Fenland District Council**  
Fenland Hall  
County Road  
March  
PE15 8NQ

November 2013

[www.fenland.gov.uk](http://www.fenland.gov.uk)

## **Fenland District Council Statement in response to Matter 16: Pollution, Land Contamination and Ground Water**

### **ISSUES and QUESTIONS**

#### **Q1. Does the Core Strategy ensure that groundwater is satisfactorily protected from development risks, particularly now that PPS23 has been cancelled?**

As currently written the Core Strategy document does not refer specifically to the protection of groundwater.

However, Policy CS16 requires proposed developments to accord, where relevant, with a range of criteria (a) to (m), which cover various matters to ensure the delivery and protection of high quality environments across the district. As submitted for Examination, criteria (l) in CS16 "mitigates against any existing or proposed sources of noise, emissions, pollution, contamination."

The Council has discussed the omission of a specific reference to groundwater protection with the Environment Agency (EA) and it has been agreed that due to the strategic scope and form of the Core Strategy that this matter is most appropriately addressed through a Supplementary Planning Document (SPD).

FDC has produced a draft SPD entitled "Delivering and Protecting High Quality Environments in Fenland", which was approved for public consultation by the Council's Cabinet on 21<sup>st</sup> November 2013. In the draft SPD the issues of ground water are addressed (in Section 13.0 and Policy DM6 – Mitigating Against Harmful Effects) in line with the representations received from the EA in its letter to the Council of the 10<sup>th</sup> April 2013.

The SPD is to be subject to a six week period of public consultation scheduled to commence in early 2014. During this period the EA (and others) will be able to assess whether the guidance as written is acceptable or requires modification. The Council will respond positively to any suggestions to ensure that the final SPD fully reflects all current national and local policies and guidance in relation to groundwater protection.

In addition the draft SPD considers other matters that are not specifically referred to in Policy CS16 including land contamination, landfill gas risk, odour and dust. These matters are raised in Question 2 below as well as in the EA's representation of 10<sup>th</sup> April 2013. The Council considers that the SPD is the most appropriate place to provide further policy guidance on these issues and has therefore included them in the supplementary document. This approach has been endorsed by the EA.

However, to ensure that there is a clear link between the SPD and Policy CS16, the Council suggests that additional explanatory text for CS16 is included after paragraph 6.2.3 and the wording for criteria (l) is amended in the following way (in bold) with an additional sentence at the end of the policy (all in bold) to make specific reference to the SPD.

#### **New paragraph 6.2.4:**

**"Where risks from landfill gas are likely to arise or where land contamination may be reasonably suspected, intending developers should hold pre-application discussions with FDC, the relevant pollution control authority and stakeholders with a legitimate interest, for example drainage and SuDS Approving Bodies. A preliminary risk assessment should be undertaken as the first stage in assessing these risks and is a requirement for validating relevant planning applications. All investigations should be carried out in accordance with CLR 11 'Model Procedures for the Management of Land**

**Contamination<sup>1</sup> and the Council’s SPD, or as may be updated. Planning permission will only be granted for development if the District Council is satisfied that the site is suitable for its new use, layout and drainage, taking account of ground conditions, contamination, pollution and gas risks arising from previous uses and any proposals for land remediation. If it cannot be established that the site can be safely and viably developed with no significant impacts on future users, groundwater or surface waters, planning permission will be refused.”**

<http://www.environment-agency.gov.uk/research/planning/33740.aspx>

Amend criteria (I) to read:

**“(I) Identifies, manages and mitigates against any existing or proposed risks from pollution, contamination or emissions including sources of noise, light, odour, smells, dust, vibration, landfill gas, other land contaminants, and protects from water body deterioration.”**

Add additional sentence at the end of Policy CS16 to read:

**“A Supplementary Planning Document to be adopted in 2014 will be used to further assess planning applications in relation to the criteria in this policy.”**

These changes are suggested as Proposed Modifications. These supersede the changes previously suggested relating to criteria (I) as Proposed Modification MPC/6/002 in the Council's proposed Schedule of Changes (CD002(b)).

**Q2. In addition, is it clear to future developers what level of assessment and information will be required to accompany planning applications, to demonstrate that pollution prevention can be satisfactorily achieved, and when it will be necessary to do so, particularly having regard to:**

- (a) land contamination;**
- (b) landfill gas risks;**
- (c) water quality protection;**
- (d) odour and dust;**
- (e) noise.**

The response to this question is largely covered in Question 1, which includes clarifying and strengthening the explanatory text and criteria (I) of Policy CS16 with clear reference to a Supplementary Planning Document. The Council is confident that the final SPD will set out the level of assessment and information that an applicant will need to demonstrate to ensure that pollution protection can be satisfactorily achieved as part of any development.

**Q3. Will Policy CS16 (I) ensure any mitigation measures proposed are effective?**

Please see the responses to Questions 1 and 2 above. The Council is confident that its proposed changes to criteria (I) with clear reference to the SPD, will ensure that mitigation measures are effective.

---

<sup>1</sup> <http://www.environment-agency.gov.uk/research/planning/33740.aspx>

**Q4. Should the Core Strategy seek to ensure that existing business and employment sites will not be constrained in their future operations by new 'sensitive land use' developments? If so, how will this be achieved?**

Yes it should, and the Council accepts that the Core Strategy currently does not cover for this eventuality.

It therefore suggests that an additional criteria is added to Policy CS16 to ensure that any proposed new development does not have an adverse impact on the operations of existing businesses and employment sites. The Council would not want the vitality and viability of existing businesses to be threatened by new "sensitive" developments e.g. new dwellings, on adjoining or nearby land.

FDC suggests that criteria (n) is added to Policy CS16 as follows:

**(n) does not result in an unreasonable constraint(s) or threaten the vitality operation and viability of existing nearby or adjoining businesses or employment sites by introducing "sensitive" developments.**

This change is suggested as a Proposed Modification.