



South Tyneside Council

South Tyneside Submission Draft Local Plan 2023 - 2040

Statement of Common Ground

Between

South Tyneside Council and the Environment Agency

March 2025

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1. Introduction

Parties to this Statement of Common Ground ('SoCG')

1.1 This SoCG is submitted on behalf of:

- South Tyneside Council
- The Environment Agency

Purpose

1.2 The purpose of this SoCG is to set out the confirmed agreements and any disagreements between South Tyneside Council and the Environment Agency in relation to the emerging South Tyneside Local Plan.

Scope

1.3 This SoCG provides the following:

- Development of the evidence base
- Issues raised by the Environment Agency in its responses to the emerging Local Plan
- The matters on which there is agreement between the parties
- The matters on which there is disagreement between the parties

2. Development of the evidence base

2.1 South Tyneside Council consulted on a Regulation 18 Draft Local Plan in 2019. Following a Cabinet decision, a new Regulation 18 Draft Local Plan was prepared and consulted on in 2022. Significant changes were made to the allocations, most notably the allocation of the Land South of Fellgate site for 1200 homes. This overview of the development of the associated transport evidence therefore commences with the development of the evidence in relation to the 2022 Regulation 18 Draft Local Plan.

The Strategic Flood Risk Assessment (SFRA) and the Sequential Flood Test

Level 1 SFRA (2022)

2.2 In order to initiate the sequential risk-based approach to the allocation of land for development and to identify whether application of the Exception Test is likely to be necessary, South Tyneside Council commissioned a Level 1 Strategic Flood Risk Assessment (SFRA). The SFRA provides evidence about the present and future risk of flooding in South Tyneside from all sources of flooding. The Level 1 SFRA was completed in 2022.

2022 Sequential Flood Test

2.3 Application of the Sequential Test for flood risk in 2022 based on the Level 1 SFRA 2022 has demonstrated that the proposed development allocations in the South Tyneside Draft Regulation 18 Local Plan pass the Sequential Test, because there are no other suitable locations for development in the borough in areas of lower flood risk for the amount of development proposed in the Plan.

- 2.4 The response of the Environment Agency to the consultation on the Draft Regulation 18 Local Plan stated, 'With respect to the sequential flood test, we agree with the methodology used and welcome references to climate change when undertaking the sequential test.'
- 2.5 The South Tyneside Employment Land Review (March 2023) identified additional plots of land at the Port of Tyne as deliverable for port and river-related economic development and amended the boundary of the existing identified plot.

Level 1 SFRA Addendum (2023)

- 2.6 The Level 1 SFRA Addendum was completed in September 2023. It provides a strategic assessment of the suitability, relative to flood risk, of the sites at the Port of Tyne to be considered for allocation in the Local Plan.

2024 Sequential Flood Test

- 2.7 Using the outputs from the latest Level 1 SFRA (2022) and Level 1 SFRA Addendum (2023), the council has performed the sequential test on all available sites using the administrative area of South Tyneside as the search area. The outcomes of the sequential test found that there were no reasonably alternative sites, within the search area, at lower risk of flooding for the nine potential development sites at the Port of Tyne. Hence the necessity for a more detailed assessment of flood risk through a Level 2 SFRA.

Level 2 SFRA (2024)

- 2.8 The Draft Level 2 SFRA was completed in July 2024. Nine individual detailed Level 2 site assessments have been produced. The Report found that, subject to further work/next steps, all of the sites can be safely developed.

Liaison between South Tyneside Council and the Environment Agency regarding the Level 2 SFRA

- The Environment Agency have been sent the South Tyneside Draft Level 2 SFRA Main Report and provided with the opportunity to comment.
- The Environment Agency provided a written response to the Draft Level 2 SFRA Main Report on 17.10.2024
- The Council provided the Environment Agency with a joint response from the Council and JBA Consulting to the written response from the Environment Agency on 04.11.2024
- The Environment Agency provided comments in response to the joint Council / JBA Consulting response on 21.11.2024
- On 10.12.2024 the Council provided the Environment Agency with the following items: -
 - The South Tyneside Final Level 2 SFRA Main Report
 - The response from JBA Consulting to the comments provided by the Environment Agency on 21.11.2024

- On 10.12.2024 the Council provided the Environment Agency with the response from JBA Consulting to the further comments received from the Environment Agency
- On 19.12.2024 the Environment Agency responded to the feedback on their written advice about the suitability of the Tyne Dock Level 2 SFRA and welcomed the amendments made in response to their previous comments.
- The non-technical note titled LSH-JBA-XX-XX-RP-Z-0003-A1-C01-Appendix C_ Response _to _EA has been included as an appendix to the main report.

3. Local Plan consultation responses

Response by the Environment Agency to the Regulation 18 consultation

3.1 Issues raised by the Environment Agency included the following:

Section	Comment Summary	Council Response
Chapter 3: Spatial Vision and Strategic Objectives	Agrees with Chapter 3	Support for Chapter 3 welcomed
Policy SP2: Strategy for Sustainable Development to meet identified needs	Agree Policy SP2.	Support for policy SP2 welcomed
Policy SP13: Regeneration Improvement Areas	Agrees with Policy SP13. Welcomes the reference to the Shoreline Management Plan and encourage that the policy unit management action is followed. We also welcome references to reviewing the latest data and evidence against existing datasets to ensure that any risk and any uncertainty is properly understood. However, we would support the inclusion of “flood risk” into the considerations when reviewing sites to ensure this is balanced alongside coastal change issues.	Support for Policy SP13 welcomed. Flood risk data is reviewed when assessing sites for development potential.
Policy SP16: Provision of Land for Port and River-Related Development	Agrees with Policy SP16 and would encourage developers to have discussions with Tyne Estuary Partnership regarding green development ideas.	The Tyne Estuary Partnership are not a statutory consultee. It is therefore at the discretion of the Development Management case officer for any given planning application as to whether or not they are consulted.

Policy 3: Pollution	<p>Agrees with Policy 3. the policy does not distinguish between historic risks (contaminated land either already polluting or could pollute if disturbed via construction) or additional, future risks from new activities/developments. Therefore, it may be beneficial to highlight both existing and future risks within this policy.</p> <p>As well, as risk to public health via direct contact with pollutants there is a risk via the water environment. The level of mitigation, risk assessment and mitigation will always be dependent on the site specific location and risks. For example, the Magnesian Limestone principal aquifer underlies much of the coastal and south eastern areas of this administrative area. Therefore, policy 3 should seek to achieve and look for a higher level of protection and enhancement of the groundwater quality in these areas rather than the Coal Measures, as the groundwater is a vital source for water supply.</p>	<p>Policy 4 deals with contaminated land and Policy 11 ensures that groundwater bodies are protected and, where possible, enhanced. It is considered that the wording of Policy 4 sufficiently covers both historic risks and additional future risks.</p> <p>Policy 4 specifies that any development that presents a risk to the water environment must carry out investigations into the issues and the effects this may have.</p> <p>Policy 11 looks more specifically to protect groundwater bodies by ensuring development which discharges into water courses and to ground incorporates appropriate water pollution control measures.</p>
Policy 4: Contaminated Land and Ground Stability	Agrees with Policy 4	Support for Policy 4 welcomed
Policy SP17: Climate Change	Agrees with Policy SP17. would like to see references to how climate change will affect and mitigate against fluvial and tidal flooding within this policy.	SP17 is a strategic policy whereas Policies 7, 8 and 9, 10, 11 and 12 look at flood risk and water management in more detail.
Policy 6: Renewables and Low Carbon Green Energy	More should be done to ensure that development relating to renewables and low carbon energy generation does not adversely impact the water environment.	In relation to pollution concerns, a minewater / borehole scheme seeks to extract / inject water at deep depths (100s m) continuously for several decades. This will be subject to very detailed EA permitting. A wind turbine base construction, like any other civils work, could impact on shallow (say 15/20m) groundwater during construction, this is assessed during foundation design and planning. It should not

		impact once built and concrete cured.
Policy 7: Flood Risk and Water Management	Agrees with Policy 7. Supports specifically measures which stop development over a culvert, compliance with Water Framework Directive, and removal of existing structures. Welcomes development towards flood zone 1 and reducing flood risk and reference to SuDS at point 3. However, consideration needs to be given to the site constraints when determining the type of SuDS to be used. Soakaways or infiltration SuDS are unlikely to be suitable in areas underlain by thick Pelaw Clay deposits. Would like to see the inclusion of climate change or reference to Policy SP17. Consideration should also be given to measures which reduce the risk of sewer flooding. The use of deep infiltration SuDs could potentially negatively impact groundwater quality, especially of the Magnesian Limestone. We would welcome consideration of this matter within this policy.	Point 5 of Policy 8 reads 'Surface water and runoff from the development will be disposed of in the most sustainable manner that is appropriate for the development and its location in accordance with the discharge hierarchy'. The following has been added to the supporting text for Policy 8 'Surface water runoff including the effects of climate change shall be managed at source wherever possible.'
Policy 8: Flood Risk Assessment and Drainage Strategy	Unsure about Policy 8. In regard to point (iv), we recommend that this is reworded to include reference to mine water and groundwater. Rising/ high mine water is an issue across the coalfield/coal measures. There is an on-going project across Tyneside (led by Gateshead Council) to try and identify and forecast groundwater flood risks. Recommend making clear that no development other than water compatible or essential infrastructure will be allowed in Flood Zone 3b. Recommend combining points I and ii into a single point.	Points (i) and (ii) have been combined to read 'When a site-specific Flood Risk Assessment (FRA) and Drainage Strategy is required, they should accord with the latest relevant national and local guidance. Point (iv)) has been moved to the supporting text and amended to read 'May be subject to other sources of flooding including surface water, ground water, mine water and from the sewer network as detailed in the SFRA'. It is not considered necessary to repeat national policy in Policy 8 with regard to not supporting development in Flood Zone 3b.
Policy 9: SuDS	Unsure about Policy 9. SuDs should multi beneficial i.e. they should be working with natural processes to store flood water and incorporate green space, carbon sequestration and provide biodiversity, rather than just seen as concrete chambers which provide no additional benefits. Amend para 7.35 to reflect that the Environment Agency (EA) is a	Add 'SuDS are an approach to managing rainwater, delivering a drainage solution which mimics natural drainage in line with the NPPF and Flood and Water Management Act definitions, and meet the 4 pillars of SuDS design (water quantity control, water quality control, biodiversity, and

	consultee on applications within flood zones, not just within 20m of a main river.	amenity) demonstrating multifunctional benefits' to the supporting text. Delete the section 'Roles and Responsibilities' from the supporting text.
Policy 10: Disposal of Foul Water	Agrees with Policy 10. Pleased with inclusion of point 2 and welcome section 7.36 which states that the local authority must be satisfied that there is sufficient sewer network capacity before granting planning permission. Welcome the inclusion of section 7.37 regarding the EA's roles and responsibilities. For clarity, it may be beneficial to include wording stating that the Coal Authority are responsible for permitting mine energy schemes.	Support for Policy 10 welcomed. It is unclear as to what the relevance is of mine energy schemes in the context of policy 10.
Policy 11: Protecting Water Quality	Agrees with Policy 11. Point 1 refers to development which discharges into a watercourse, or a watercourse that discharges to ground shall incorporate appropriate water pollution control measures and consider opportunities to reduce detrimental impacts. However, the policy does not refer to developments that discharge directly to the ground. Recommendation that references are made to all three, or wording amended accordingly. the Local Plan should seek to manage development in ways that during construction they minimise pollution.	Point 1 of the policy amended to 'Ensuring development which discharges to watercourses and to ground shall incorporate water pollution control measures and consider opportunities to reduce detrimental impacts including:' The following text has been added to the Pollution Policy 'Where the Council considers it likely that the proposal will result in significant adverse environmental effects during the construction phase a Construction Environmental Management Plan (CEMP) will be required'.
Policy 12: Coastal Change	Unsure about Policy 12. References should be made to Shoreline Management Plans and compliance with any policy unit management actions.	The supporting text to the policy outlines the council's support for the North East Shoreline Management Plan
Policy 38: Providing for Cemeteries	Unsure about Policy 38. Recommend that that references are made to ensure that there are no adverse impacts on water quality as well as water table and flood risk	Policy amended to make reference to water quality.
Policy 56: Waste Facilities and Policy	Agrees with Policy 56. All future waste facilities must hold a relevant waste permit from the EA.	Support for Policy 56 welcomed. Comments regarding waste permits noted.
Policy 59: Development Management Considerations	Unsure about Policy 59. Amend to include protection of the natural/water environment. Ensure that all existing and new mineral extraction should not adversely impact groundwater quality or	Policy wording updated to include 'Proposals must ensure the protection of water bodies throughout exploration, the working life of the site and

for Minerals Extraction	resources. Open excavations can pose a pollution risk/pathway to the water table whilst they can artificially lower or divert groundwater flows. Locations near the coast could result in saline intrusion and the deterioration in the WFD status of the groundwater body.	following final restoration. Detailed hydrological and hydrogeological risk assessments will be required to support minerals and waste planning applications.'
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Local Plan Sustainability Appraisal

- 3.2 The Environment Agency also commented on the Local Plan Sustainability Appraisal stating 'We welcome and support the sustainability objectives outlined in the SA, in particular the objectives advocating the enhancement and conservation of biodiversity and safeguarding environmental assets and mineral resources. We also support consideration of the WFD and water quality within the SA.'

The Level 1 SFRA

- 3.3 Regarding the Strategic Flood Risk Assessment (SFRA) that Environment Agency stated "We agree that flood zone proxies being used as climate change is appropriate for a level 1 SFRA. However, a level 2 SFRA or site specific FRAs will need to use up-to-date climate change figures available on the .gov website: <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>". JBA Consulting has confirmed that up-to-date climate change figures are being used for the level 2 SFRA.
- 3.4 In respect of the SFRA, the Environment Agency also commented 'It would be useful to understand if a Level 2 SFRA will be undertaken'. The South Tyneside Level 2 SFRA Scoping Report was sent to the Environment Agency on 7th December 2023.

The Sequential Flood Test

- 3.5 Regarding the sequential flood test, the Environment Agency stated, 'we agree with the methodology used and welcome references to climate change when undertaking the sequential test'.

Response by the Environment Agency to the Regulation 19 consultation

- 3.6 The Environment Agency responded to the Regulation 19 consultation with the following comment: 'We have reviewed the Proposed Publication Draft Local Plan Document, and we consider it to be sound'.

4. Areas of Agreement

South Tyneside Council and the Environment Agency

- 4.1 The following is agreed between South Tyneside Council and the Environment Agency
- The Environment Agency agree with the methodology used for the Sequential Flood Test undertaken in support of the Regulation 18 Draft Local Plan

- The South Tyneside Level 2 SFRA Scoping Report was sent to the Environment Agency and the Environment Agency were provided with the opportunity to comment on the proposed methodology.
- The Environment Agency has confirmed that it supports the Final Tyne Dock Level 2 SFRA as an evidence base in the Local Plan.
- The Environment Agency has reviewed the Regulation 19 Draft Local Plan and consider it to be sound.

The Duty to Cooperate

- 4.2 Agreed - Effective and ongoing duty to cooperate engagement has taken place between the parties throughout the preparation of the draft South Tyneside Local Plan and will continue during its implementation.

5. Areas of Disagreement

- 5.1 There are no known areas of disagreement between South Tyneside Council and the Environment Agency.

6. Conclusion

- 6.1 The parties are committed to working positively together and continuing to engage with one another through the examination process and beyond.

7. Signatories

Signed on behalf of South Tyneside Council
Stuart Wright, Director of Place Strategy



Signed on behalf of the Environment Agency
Louise Tait, Planning Advisor, Sustainable Places, North East

L.D.Tait