

From: [REDACTED]
To: [SheffieldPlan](#)
Cc: [REDACTED]
Subject: RE: Publication (Pre-submission) Draft Sheffield Plan 2022
Date: 20 February 2023 16:01:06
Attachments: [image001.gif](#)
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[image006.png](#)
[EA Sheffield LP reg19_response.pdf](#)

Dear team

Please find attached the Environment Agency's response to the Publication (Pre-submission) Draft Sheffield Plan 2022 consultation. Should you have any queries please do not hesitate to contact us.

Kind regards

Matthew Wilcock

Planning Specialist - Sustainable Places (Yorkshire)

Environment Agency | Foss House, Kings Pool, Peasholme Green, York, YO1 7PX

[REDACTED]

Working days: Monday to Thursday
Pronouns: he/him ([why is this here?](#))



From: SheffieldPlan <sheffieldplan@sheffield.gov.uk>

Sent: 09 January 2023 10:57

Subject: Publication (Pre-submission) Draft Sheffield Plan 2022

Dear Statutory Consultee/Statutory Consultee's Agent

Publication (Pre-submission) Draft Sheffield Plan 2022

Consultation pursuant to Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012

We are preparing a new local plan, which, when adopted, is expected to be called "the Sheffield Plan". Following public consultation on 'Issues and Options' in 2020, the Publication (Pre-submission) Draft Sheffield Plan is now ready for consultation.

The Publication Draft Plan represents the Council's formal proposals on how the city should grow and develop over the period to 2039. It covers the whole of Sheffield except for the part of the city that is in the Peak District National Park.

We are asking for comments and feedback on whether the Plan has been prepared in accordance with legal and procedural requirements, and whether it is sound. Plans are sound if they are:

- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

- b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- d. **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework and other statements of national planning policy, where relevant.

The statutory public consultation is available for a 6-week period from Monday 9 January to Monday 20 February 2023. A full **Statement of the Representations Procedure** is attached to this email.

You can read the Publication Draft Sheffield Plan on the [Consultation Portal](#) on the Council's website. You can also view the other supporting documents that we will be seeking comments on, together with other background documents that you may find helpful to refer to.

To make your comments visit the Consultation Portal from 9 January. Please make your comments no later than 11.59 pm on Monday 20 February.

Details of all the consultation events are also available on the Consultation Portal (which can also be accessed from the Council's website).

Why we are writing to you

We are writing to you as you as a statutory consultee or because you have previously expressed an interest in being kept informed about the new local plan. Consequently, you are on our mailing list of contacts for this group and will have signed up to our 'terms and conditions'.

The data you give us

Under the General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA) Sheffield City Council is a Data Controller for the information it holds about you. The lawful basis under which the Council uses personal data for this purpose is consent.

All representations are required to be made public and will be published on the Council's website following this consultation. Your representations and name/name of your organisation will be published, but other personal information will remain confidential. Your data and comments will be shared with other relevant agencies involved in the preparation of the local plan, including the Planning Inspectorate. Anonymous responses will not be considered. Your personal data will be held and processed in accordance with the Council's Privacy Notice which can be viewed at: <https://www.sheffield.gov.uk/utilities/footer-links/privacy-notice>

How to contact us

If you would have difficulty accessing any of the consultation documents via our website or accessing the Consultation Portal, or you need any further advice or information, please contact us at sheffieldplan@sheffield.gov.uk. You can call us on 0114 2735274. Please also email us at the above address if you no longer want us to contact you about the Sheffield Plan.

Yours faithfully



Simon Vincent
Strategic Planning Service Manager
Planning Service
Sheffield City Council

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Planning Policy Team
Sheffield City Council

Our ref:
Your ref:

By email to
sheffieldplan@sheffield.gov.uk

Date: 20 February 2023

Dear Team

Consultation on the Regulation 19 Draft Sheffield Plan

Thank you for your consultation on the Regulation 19 Draft Sheffield Plan which we received on 9 January 2023.

We have reviewed the Plan and the supporting documents. In most of our comments below we offer suggestions of amendments for clarity.

We are generally supportive of the revisions to the Plan outlined; however, we do raise a soundness issue that will need to be resolved, in our view, for the Plan to proceed through examination and be adopted.

Paragraph 2.23 of the Duty to Cooperate Position Statement (December 2022) sets out that Sheffield City Council (SCC) are currently preparing a Level 2 SFRA that will take full account of the latest national guidelines and its conclusions will be considered further in partnership with the Environment Agency (EA). We can confirm that SCC are actively engaging with the EA on this and that this approach was agreed prior to this consultation. However, at this stage, as the flood risk evidence for some allocated sites is not yet complete, we are unable to find the plan sound. We believe the lack of the Level 2 SFRA means the plan is not consistent with national policy. We look forward to continuing to work with SCC to enable them to address this prior to examination. Once a suitable Level 2 SFRA is complete we will be in a position to remove our soundness issue.

In particular, there is no reference to how development will be managed that is at risk of residual flooding, both overtopping and breaching of defences, culvert blockage, reservoir failure/emergency drawdown.

In our previous Regulation 18 response we stated:

We also propose the inclusion of a policy on development in residual risk areas as Sheffield, as it is now protected by new flood defences with more flood defence schemes possibly proposed. As the planning system is consequence driven the failure of defences should be considered in line with paragraph 163 of the NPPF and

5 the guiding principles of the PPG. Please also refer to 'FD2320 Flood risk assessment guidance for new development'.

We have also discussed updating flood zone 3b and the guidance has changed on modelling this flood zone and new defences have been built in Sheffield.

Part 1 – Vision, Spatial Strategy, Sub-Area Polices and Site Allocations

Policy CA1 - Kelham Island, Neepsend, Philadelphia, Woodside

f) Proactively manage flood risk and drainage issues, particularly in those areas located closest to the River Don that are designated as a functional flood plain, including pockets of land with a high risk of flooding in Neepsend.

It may be beneficial to make it clearer what is meant as proactively manage flood risk here. Functional flood plain has clear guidance on its use within National Planning Policy Framework (NPPF).

A similar paragraph is also within Policy CA6 (d).

Policy BG1 – Blue and Green Infrastructure

Watercourses are not clearly represented in Map 17. The Policy only seems to refer to the “baseline” that is already there and does not refer to extending network or improving connectivity which could be done through Local Nature Recovery Strategies (LNRS) and Biodiversity Net Gain (BNG). This is especially important for the natural connectivity provided by the waterways, where improving habitat and removing or mitigating manmade structures such as culverts, weirs and hard banks could play an important role for blue green infrastructure alongside regeneration.

We are currently working with SCC on the development of Natural Flood Management (NFM) projects where we are working principally on SCC land, a policy identifying the use of green spaces in the city for NFM type measures could provide an important step to improve biodiversity and public involvement in strengthening blue green infrastructure.

Policy IN1 - Infrastructure Provision

Flood risk and drainage - Sheffield City Council (as Lead Local Flood Authority) will work in collaboration with statutory providers to deliver planned risk management and resilience measures and help define future measures to reduce and mitigate the impacts of flooding. Specific focus will also be on delivering development that does not increase flood risk across the city and is designed in such a way that builds in flood resilience.

Where it states that development does not increase flood risk across the city – we would suggest re-wording to make clear that flooding isn't increase elsewhere (including out of the city).

Site allocations

We have not yet completed our assessment of your site allocations as we do not yet have all the information required to enable us to do that. Once the Level 2 SFRA information is available we will be able to assess the sites fully.

Part 2 – Development Management Policies and Implementation

Policy NC5 - Creating Mixed Communities

We strongly advise that under criteria c) - please could consideration be given to HMOs in areas of flood risk. These should not result in ground-floor or basement level self-contained rooms. We would advise that the recently adopted Doncaster Councils Policy 9 on HMO's is worth reviewing in relation to this topic.

We note that this is a reoccurring issue that we deal with when it comes to flood risk changes of use or new builds which involve ground floor sleeping accommodation (i.e., bungalows, single storey barn conversions, change to HMOs or flats etc) in flood zone, particularly where there's no internal place of safety. We recommend that you develop policy wording to guide developers away from this type of issue. As highlighted, Doncaster Councils Policy 9 on HMO is a good starting point for this.

Policy NC6 - Purpose-Built Student Accommodation

As with the above, please could consideration be given to student accommodation in areas of flood risk within this policy wording. These should not result in ground-floor or basement level self-contained rooms.

Policy NC7 - Gypsy and Traveller and Travelling Showpeople Sites

We recommend that you should add a statement within Policy NC7 to the effect of - Proposed new sites, or extensions to existing sites, within flood zones 2 or 3, will be subject to relevant local and national flood risk policy.

Policy ES1 - Measures required to achieve reduced carbon emissions in new development

e) Whilst we support the inclusion of wetlands, this should be specifically linked to the management of Green Spaces and the Local Nature Recover Network (LNRN). Also, they should relate to biodiversity, flood risk reduction and drought resilience.

Policy ES6 – Contaminated and Unstable Land

The supporting text may consider promoting the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.

The supporting text could also refer to best practice and guidance which can be found on the contaminated land pages on GOV.UK and within the document called The Environmental Agency's approach to groundwater protection. This document can be found in the following link:

<https://www.gov.uk/government/publications/groundwater-protection-position-statements>

Policy GS5 – Development and Biodiversity

The policy wording refers to “*appropriate buffer strips to habitats*”; however, we recommend that policy and/or supporting text clearly defines what these specific appropriate distances are. For example, the definition section below the policy wording states 15m for ancient woodland. Appropriate buffer strip distances for other habitats of importance should be added here – e.g., *at least 10m for rivers and streams, and a distance of greater 10m in some cases (dependant on the river type and how laterally active it naturally is)*.

The policy could specifically mention the removal of barriers to fish migration to enhance connectivity within the riverine environment as noted in other local strategies, e.g. -

The Humber Basin Management Plan states “*All rivers within the Humber Basin region will hold naturally self-sustaining spawning populations of migratory fish by 2021*”.

The Sheffield Waterways Strategy Group states “*We will continue to improve fish passage at barriers such as weirs and culverts, and will work towards our target of bringing salmon, eels and otters right back up our river system*”.

The Catchment Plan for the Don and Rother Catchment 2021 - 2026 states the following in regard to addressing historic modifications; “*Possible changes to re-naturalise the river which would benefit wildlife include: removal of weirs or construction of fish/eel passes, opening up of culverts or creating new washlands.*”

Policy GS6 – Biodiversity Net Gain

We support the requirement for all new development to achieve a minimum of 10% BNG.

We recommend that the policy is updated to specifically acknowledge the requirement for a minimum of 10% net gain to be demonstrated separately for all types of biodiversity unit (Area Habitats, Linear Hedgerow Habitat and Linear Rivers & Stream Habitat) if present within a proposed development site. As per the Biodiversity Metric guidance, “*it is an important rule of the metric that the three types of biodiversity units described above [Area Habitats, Linear Hedgerow Habitat and Linear rivers & Stream Habitat] are unique and cannot be summed, traded or converted (Rule 4). When reporting biodiversity gains or losses with the metric, the three different biodiversity unit types must be reported separately and not summed to give an overall biodiversity unit value. For example, a scheme would report a gain of 3 area habitat units, a loss of 1 hedgerow unit and a loss of 1 river unit rather than an overall combined gain of 1 unit*”.

We note there is minimal reference to BNG and riverine habitat throughout Policy GS6 and its supporting text. In addition to clearly stating an uplift of at least 10% in river units will be required when these are identified on-site, this could be supported by linking to Policy GS9: Managing Flood Risk which states new development will be permitted where is set a minimum of 8 metres from a main river or 3 metres from ordinary watercourses. We recommend this section makes explicit reference to situations where applicants will also need to apply the river metric where a proposed

development site's red line boundary falls within the riparian zone which is defined as 10m from the bank top– e.g., the Biodiversity Metric guidance states:

“The riparian zone is an intrinsic part of the ecological functioning and natural processes occurring in the river. Where the red line boundary of the development encompasses the riparian zone, either whole or in part, but excludes the channel of the watercourse, the rivers and streams metric (including the condition assessment) must be applied. This applies to rivers, streams and canals as the riparian zone is used to calculate its condition. The riparian zone of a ditch is not used to influence condition, therefore would not apply. By applying the river metric in this scenario, information will be required that is outside of the red line boundary (as it includes the banks, channel and bed of the river)”.

Furthermore, we support the wider comments made by Natural England with regards to BNG.

Policy GS9 – Managing Flood Risk

We feel that this policy could be made clearer where it is referring to flood zone 3b and other flood zones. The policy also refers to ‘high probability of flooding’ but does not explain what this is, is it 3b, 3a, surface water, groundwater etc. Local Plans do not need to repeat NPPF so it may be clearer to state something like what Doncaster’s Local plan says: *The extent and detailed boundaries of the functional flood plain (flood zone 3b) are identified through the Council’s Strategic Flood Risk Assessment, in agreement with the Environment Agency, where national policy will be applied.*

Where it states: *for Main Rivers as agreed with the Environment Agency but a minimum 8 metres from top of bank (and any flood defences on the site) either side*
Please can it state in the brackets (or 8m from the landward toe of the flood defence/embankment structure)

Please could you also add: any activities on or near a main river, flood defence structure or in a flood plain need to comply with the The Environmental Permitting (England and Wales) Regulations 2016 – Schedule 25 Part 1

Paragraph c) minimises culverting and no building over open watercourses wherever practicable.

This is weaker than what was written in the Core Strategy 2009 Policy CS 67 which stated: *not culverting and not building over watercourses wherever practicable.*

The Environment Agency has a policy that states:

We are opposed to the culverting of any watercourse because of the adverse ecological, flood risk, geomorphological, human safety and aesthetic impacts. Watercourses are important linear features of the landscape and should be maintained as continuous corridors to maximise their benefits to society.

We will normally object to proposals to build over existing culverts because of health and safety considerations, increased maintenance costs and complexities and because future options to restore the watercourse may be precluded. We will, where we deem appropriate, take possible cumulative impacts into account when making

decisions.

We will actively pursue the restoration of culverted watercourses to open channels. As stated in our previous response to the Sheffield Plan Issues and Options 2020 - Consultation pursuant to Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 we stated that the culvert policy needed to be strong to enable the prevention of building over culverts in Sheffield.

Additionally, East Riding of Yorkshire Council have additional detail around culverting which is useful, and you may wish to use to strengthen this part of the policy:

8.95 Culverting will not generally be permitted as part of new development, because of the adverse ecological, flood risk, safety and aesthetic impacts. It will only be permitted where there is no reasonably practicable alternative, or if the detrimental effects would be so minor that a more costly alternative is not justified. In all cases, where it is appropriate to do so, applicants must provide adequate mitigation measures for loss of capacity, accept sole ownership and take responsibility for future maintenance. This includes any weed or safety screens installed on the culvert. Management of the culvert must be agreed with the relevant Risk Management Authority, which will either be the Council as the Lead Local Flood Authority, Internal Drainage Board, or Environment Agency depending on the water course effected.

8.96 If a site contains an existing culverted watercourse, applicants will be required to investigate whether it is feasible or practicable to open up the culvert and restore the watercourse to a more natural state. Where this is not possible, it will be necessary to incorporate mitigation measures that compensate for any loss of capacity and ensure that access is maintained to any watercourse or culvert to enable maintenance works to be carried out. Building over existing culverts will not normally be permitted, due to health and safety considerations and increased maintenance costs. It would also preclude future options to restore the watercourse.

Source: East Riding Local Plan Strategy Document - Adopted April 2016

We would like there to be more consideration on how windfall sites will be considered in policy GS9 for example the policy should make clear that windfall development (housing) will also need to pass the exception test. A recent example of where this has been done is in Doncaster's adopted Local Plan flood risk policy 57.

Policy GS10 – Protection and Enhancement of Water Resources

We support the reference to requirements of the WFD in this policy. The principles of WFD and the use of WFD assessment for development to protect and enhance the ecological value of river corridors is vital to providing the connectivity required for the successful implementation of the Local Nature Recovery strategy.

Policy GS11 – Sustainable Drainage Systems

Whilst we broadly support the inclusion of this policy, it should reflect that if the SuDS includes an infiltration device it should not pose an unacceptable risk of pollution to

controlled waters by mobilising potential contaminants in the ground. We ask the LPA to reference within their SUDs policies the document called [The Environment Agency's approach to groundwater protection](#), which contains position statement G and provides information on the use of drainage systems. A groundwater policy should be developed which is compliant with the groundwater protection position statements found within the document.

Policy DE10 - Development and Heritage Assets

We suggest a minor change to this policy in order to demonstrate that natural heritage and built heritage are both important considerations:

*“Development that would harm the significance of a heritage asset will be permitted only where this is clearly justified and outweighed by the public **or ecological** benefits of the proposal. Substantial harm or total loss to the significance of a designated heritage asset will be permitted only in exceptional circumstances.”*

Additional advice

Water resources - Drought

In light of the 2022 drought, we would again encourage the LA to consider the risk posed by drought and the local Plan should include some points directly addressing drought/long periods of dry weather. Additionally, including a paragraph explaining what the council's water resource policy is would be very useful, as it would prepare for and address the risks posed by drought and weather extremes.

We would support policies that encourage measures that reduce climate change impacts, including carbon technology, such as ground source heating and cooling, where these are properly managed. Similarly, we encourage a policy that minimises the environmental effects of dewatering

Oil/gas – Minerals – Petrol Filling Station

We have previously suggested a policy for petrol stations, and we note this isn't reflected in the wording of the draft plan.

A policy should be developed to promote good practices in groundwater. Consider the development of a policy for new petrol filling stations, which may include the following wording: good practice should be followed in the location, design, construction and maintenance of petrol stations and other fuel dispensing facilities. Due regard should be given to 'The Environment Agency's approach to groundwater protection' document, in particular the position statements and guidance in the section on the storage of pollutants (chapter D). Further guidance can be found on the water management pages of gov.uk

Cross Connection issues.

Usually, Cross Connection refers to foul drainage misconnected into surface drainage systems, but it also refers to surface water misconnected to foul drainage systems. Foul to Surface causes pollution of watercourses.

Surface to Foul can also lead to pollution of watercourses by overloading receiving sewerage & wastewater treatment plants.

There are known chronic Cross-Connection problems on watercourses in Sheffield, namely Tongue Gutter & Shire Brook. Some of these Cross Connections are from Sheffield CC Housing stock.

Sheffield CC should proactively resolve known issues with their Housing Stock. The Council need to collaborate with the Environment Agency & Yorkshire Water Services Limited to address Cross Connection problems. Any initial enforcement is the responsibility of their Environmental Health Team.

Development adjacent to regulated sites

New development close to permitted facilities could result in impacts including the nearby community being exposed to impacts (e.g., odour, noise, dust and pest). The severity of these impacts will depend on relevant local factors e.g., the size of the facility, the nature of the activities or prevailing weather conditions.

Planning policy requirements (paragraph 187 of the National Planning Policy Framework) state that new development should integrate effectively with existing businesses and not place unreasonable restrictions upon them. Where the operation of an existing permitted facility could have significant adverse effects on new development (including changes of use), the applicant should be required to provide suitable mitigation for these effects. Mitigation can be provided through the design of the new development to minimise exposure to the neighbouring permitted facility and/or through financial contributions to the operator of the facility to support measures that minimise impacts.

Environmental Permitting Regulations require operators to demonstrate that they have taken all reasonable precautions to mitigate impacts of their operations. This is unlikely to eliminate all emissions and there is likely to be residual impacts. In some cases, these residual impacts may cause local resident's concern. There are limits to the measures that the operator can take to prevent impacts to residents.

Consequently, it is important that planning decisions take full account of paragraph 187 of the NPPF. When a new development is built near to an existing permitted facility this does not automatically trigger a review of the permit.

Therefore, we recommend that regulated sites are considered within the site allocation methodology and potential allocations are directed away from sites which are adjacent/nearby permitted facilities.

It would also be useful to have appropriate protocols set out in Local Plan policy that highlights the above and developer requirements with regard to mitigations.

Duty to cooperate

The Environment Agency is identified as a relevant body with regard to the Duty to Cooperate. We welcome the opportunity to work with you on strategic cross boundary matters in preparing your Local Plan.

Potential issues could, for instance, relate to flood risk, capacity of infrastructure (such as waste water treatment plants) impacts on WFD considerations, and impacts on wildlife corridors and habitat.

We trust the above advice is useful. If, in the meantime, I can be of any further assistance, please don't hesitate to contact me or the EA Yorkshire Sustainable Places Team. We would welcome further dialogue with yourselves in resolving the issues outlined within this response.

Yours sincerely

Matthew Wilcock
Sustainable Places Planning Specialist

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