

Matter 12
Representor Ref No. 102
Name: Robin Kerr



Placemaking Plan consultation - Further Comment - on Flooding

The Federation of Bath Residents' Associations (FoBRA) – Respondent 102 - has already made a substantial representation on this subject (FoBRA Representation N dated 2nd Feb 16, which now appears in B&NES' "Schedule of Duly Made comments received (in Plan Order)" as Comment No. 14 on pages 581-584). A copy is annexed for convenience.

As will be apparent, the Placemaking Plan does not, at present, provide a proposal which considers how any Development Site in Bath near the river Avon is functionally related to adjacent areas in flooding/flood risk terms; and whether the development is to be carried out in a way that will mitigate flood risk for the existing properties in adjacent parts of the city outside the Development Site (particularly the many listed Heritage ones); or makes it more difficult to improve flood defences in any neighbouring area at risk of flooding, contrary to National Policy. This needs to be rectified if the Plan is to be effective or legal.

I understand this will be treated under Matter 12 (Site Allocation) during the Examination in Public.

Robin Kerr, FoBRA Chairman

12th Aug 16

N. Flood Risk

Annex

1. **Placemaking Plan Volume No:** Volume 2 - Bath
2. **To which part of that Volume does it refer: policy, para, table, diagram; and the number of this policy, para, table, diagram?** Policy B1 part 1 and part 10(e) (non-compliance of PMP with Policy B1); Paragraphs 63 to 65 on page 21 (World Heritage Site and protection thereof), paragraphs 85 to 89 on page 26 (Addressing Flood Risk); Policy SB1 (Walcot Street/Cattlemarket site), pages 39 to 41; Policy SB2 (Central Riverside and Recreation Ground), pages 42 to 44; Policy SB3 (Manvers Street), pages 35 to 38.
3. **Is it (a) legal and/or (b) sound?** It is neither legal nor sound.
4. **If not sound, is it not (a) positively prepared, (b) justified, (c) effective, or (d) consistent with National Policy?** The document is NOT legally compliant, nor is it effective.
5. **What is the comment, giving details of why it is not legally compliant or sound, and adding changes necessary to make it so?**

Fundamentally, the PMP fails to comply with national planning law and guidance because it over-narrowly focuses on new development to the exclusion of meeting the legal (and moral) duty of the local authority to protect its existing residents.

Substantial areas of the city Bath are at high risk of flooding from the river. Many hundreds of properties are at risk of 1:100 or higher (930 according to "Flood Risk in Bath" as published September 2014 by B&NES and the Environment Agency), and this is predicted to increase to 1500 to 2000 with climate change. Many buildings at risk of flooding are Grade I and Grade II listed buildings within the UNESCO World Heritage Site of the City of Bath.

The PMP notes that development cannot increase flood risk to others. **However, currently it fails to put any obstacles in the way of development in the identified Development Sites being carried out in a way that will make it more difficult or impossible to improve flood defences for existing properties in neighbouring areas.** As explained below with reference to specific examples, the PMP improperly ignores the known flood risk to many thousands of existing residents and, through neglecting to acknowledge and recognise appropriately flood risk to existing properties, fails to provide a coherent policy on addressing flood risk in relevant development sites.

To meet national law and guidelines, and in the context of a city with a high number of properties including many heritage properties at risk of flooding (which is furthermore increasing with climate change), the PMP should include an over-

arching requirement that, in any Development Site in the city that is near the river Avon, there must be due consideration of (a) how the development site is functionally related to adjacent areas in flooding/flood risk terms; (b) whether the development may be carried out in a way that will mitigate flood risk for existing properties in adjacent parts of the city outside the Development Site and (c) whether the development as proposed incorporates any proposal that may make it more difficult to improve flood defences in any neighbouring area at risk of flooding, with a policy that such development should be modified to avoid any such obstacle.

Turning to specific examples of non-compliance:

a) The PMP is NOT sound on the subject of flooding at the Recreation Ground in Site SB2 “Central Riverside and Recreation Ground” because all of the relevant documentation and evidence has not been shown or considered.

In Diagram 5, showing the Central Riverside and Recreation Ground, a magenta line is drawn enclosing the Recreation Ground. This area is referred to in paragraph 122 as an “important flood storage area during flood events”.

This line does not define the flood limit during flood events however. The attached maps, taken from Bath Flood Risk management Project: Technical Note, commissioned by B&NES and produced by Black and Veatch¹, show the actual extent of the flooded area for various annual probability flood events. These are the maps that should be referred to and used in any reference to flood events and storage at the Recreation Ground.

b) The same document, the Bath Flood Risk management Project: Technical Note, commissioned by B&NES and produced by Black and Veatch, states on page 2:

“2.1.2 Compensatory storage

Options to provide compensatory flood storage upstream of Bath have been considered by B&NES as a means of mitigating the increase in flood risk. Previous studies, whilst suggesting upstream storage may be suitable, have all concluded that further more detailed computer modelling should be undertaken to confirm this approach.

This modelling has now been undertaken and confirms that, as stated above, the principal impact of raising developments is a loss of flow conveyance, rather than a loss of flood storage. To provide flood storage that would actually reduce peak flows in Bath would require a volume that is in excess of 10 million cubic metres and would need to be on land that currently does not flood. No suitable sites of

¹ http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Evidence-Base/Flood-Risk/bath_frm_project_technical_note.pdf

this size are available upstream and therefore upstream storage is no longer being considered as part of any flood mitigation measures for these development sites.”

Technical advice FoBRA has been given² confirms this,

“The Rec storage is of no use to Bath: any flood flow from there would need to be in to the river and away before high flows come down the river, not held up. The storage is too close to the risk area to be of any use to Bath.”

The policy for the Recreation Ground is inconsistent with this and therefore not sound.

c) E U Flood Directive 2007/60/EC requires Member States to assess if all water courses are at risk from flooding, to map the flood extent and assets and humans at risk in these areas and to take adequate and coordinated measures to reduce this flood risk. It also reinforces the rights of the public to access this information and to have a say in the planning process.

There is no record of residents of this area being informed or consulted about the statement that the Recreation Ground is an “important storage area during flood events” and the ramifications of this. The PMP does not, therefore, comply with this directive and is hence unsound.

d) The Council’s Sustainability Appraisal process, SA Objective 10, states that development sites should “Reduce vulnerability to, and manage, flood risk (taking account of climate change)”.

This is not evident for the Recreation Ground site as any future development could also be used to reduce flood risk to surrounding properties as in the Lower Bristol Road.

The policy at the Recreation Ground is inconsistent with this and therefore unsound.

e) Volume I of PMP, page 12 paragraph 23, states:

“There is a need to tackle the causes and effects of climate change... making sure that our area is resilient to climate change, particularly the potential for flooding.”

The policy at the Recreation Ground is inconsistent with this and therefore unsound.

f) Volume I of PMP, Page 18, Objective 1 Climate Change, states:

² K. Tatem, former River Avon technical specialist at the Environment Agency.

“Shaping places so as to minimise vulnerability and provide resilience to impacts arising from climate change including increased flood risk”.

The policy for the Recreation Ground is inconsistent with this Objective and therefore unsound.

g) The Core Strategy Policy B1 Spatial Strategy 1(a) to (c) includes a requirement for strategy to sustain and enhance the significance of the city’s heritage assets including the Outstanding Universal Value of the City of Bath World Heritage Site, listed buildings, the Bath conservation area archaeology, and scheduled ancient monuments.

The Bath PMP fails to meet that requirement of its Core Strategy by abandoning parts of Bath’s unique and globally valued World Heritage Site to increasing flood risk – the PMP contains neither measures to reduce flood risk to Bath’s heritage nor measures sufficient to maintain current levels of risk in the face of climate change.

The PMP is, therefore, inconsistent with the Core Strategy and hence unsound.

h) The National Planning Policy Framework (NPPF) specifies (paragraph 7) core planning principles including that planning should “conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations”.

The Bath PMP fails to comply with that core planning principle.

There can be no argument as to the significance of the heritage assets that are at risk of flooding in Bath since (a) the entirety of the areas at risk of flooding in Bath are within the World Heritage Site and (b) the areas at risk include hundreds of Grade I and Grade II listed properties.

NPPF para 126 explicitly provides that local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

The great significance of heritage buildings in Bath’s flood zones is not in dispute (see above). Flood risk is clearly one of the greatest risks to those buildings in the context of Bath, many heritage buildings in the zones at risk being at higher risk than 1:100 plus climate change. No measures are included in the PMP to comply with the duty set out in para 126.

The PMP is, therefore, unsound and not in accordance with National Policy.

i) The PMP fails to provide proactive strategies to mitigate and adapt to climate change as required by paragraph 94 of NPPF, and as drafted fails adequately to prevent development in designated areas from impacting on neighbouring heritage buildings.

The PMP is, therefore, unsound and not in accordance with National Policy.

j) The NPPF provides in paragraph 99 that “Local Plans should take account of climate change over the longer term, including factors such as flood risk”. That statement is not limited to new development. The PMP fails to take account of climate change (short term or longer term) in relation to any existing homes and businesses and is therefore not in accordance with National Policy and unsound.

k) Para 156 of the NPPF requires that the Local Plan must include strategic policies to deliver (inter alia) the provision of infrastructure for flood risk management. Para 156 explicitly relates to the area in the Local Plan, not merely to development sites.

The PMP for Bath fails to include such a strategic policy, artificially and unrealistically limiting the addressing of flood risk to designated development areas without considering flood risk in adjacent areas that are inextricably linked with the designated development areas in functional flooding terms. This is illustrated herein with reference to the example of the development site identified as Site SB1 – Walcot Street/Cattlemarket.

The PMP for Bath SB1 paras 1 to 12 Development Site SB1 “Walcot Street/Cattle market Site” borders the river Avon and specifically is opposite a large area of the city that is at high risk of flooding (including care homes and sheltered housing on the river bank which alone house around 100 vulnerable elderly people, as well as many Grade I and II listed buildings further back from the river bank). It is recognised by the Environment Agency that this part of the river requires flood risk mitigation. The Bath Flood Alleviation Scheme in the 1970s included works proposed for flood risk mitigation in this area that were unfortunately not implemented at the time.

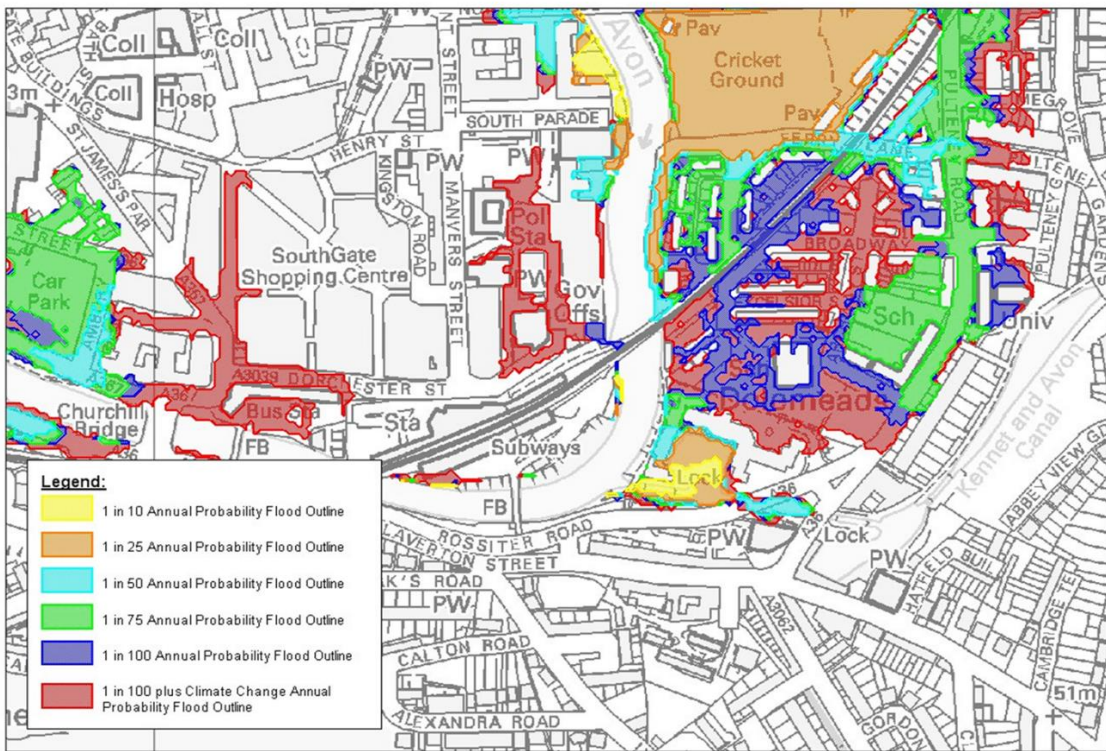
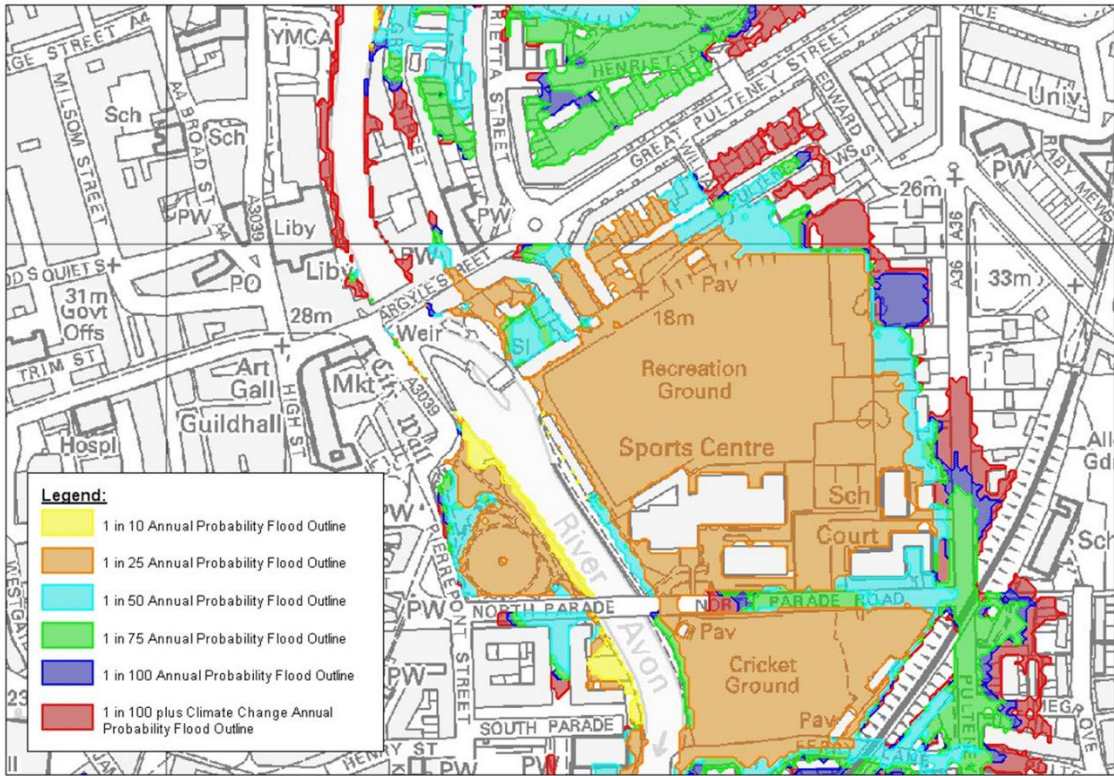
The Environment Agency and B&NES advise that the only way to reduce flood risk for these areas of the city inhabited by existing residents (essentially those upstream of Churchill Bridge) is by increasing conveyance, but they also advise that the proximity of many properties on the bank of the river opposite the Walcot Street/Cattle market to the river will make it difficult or impossible to increase conveyance cost-effectively. This is an example of a location at which development could be done in ways which would facilitate future flood risk mitigation measures or could be done in ways that could be an obstacle to such future risk mitigation measures. It is submitted that the PMP should include a requirement that any development of the Cattle market site must include

assessment of options for utilising the development opportunity to enable flood mitigation measures in the part of the river between Pulteney Bridge and Cleveland Bridge. Development of the Cattle market site without use of any opportunity to accomplish or facilitate flood risk mitigation on the opposite bank of the river will limit the subsequently available options for flood mitigation measures and will therefore be contrary to the B&NES Core Strategy B1 Spatial Strategy 1(a) to (c) and to the NPPF paras 7, 94, 126 and 156. This applies equally to the SB3 Manvers Street site in the parts thereof that adjoin the river, which are likewise opposite residential areas at risk of flooding, including two schools.

The PMP is therefore unsound and not in accordance with National Policy.

To rectify this: It should be enshrined in the PMP that any development carried out in the identified development sites upstream of Churchill Bridge must (i) include consideration of whether measures could be incorporated that have the potential to improve flood risk for adjacent areas of existing properties and (ii) be carefully assessed to ensure it does not include any structure that could be an obstacle to increasing conveyance in a nearby part of the river that presents a flood risk to existing properties near the development site. Without such measures the PMP will condemn residents in existing properties to the increasing risk of flooding that comes with climate change contrary to the Authority's legal and moral duties to protect residents, to protect and conserve heritage, and to allow for climate change. The policy for the Recreation Ground and, where appropriate, other development sites adjacent to the river should be amended to ensure that future development is used to provide funds to protect the surrounding properties from the 1 in 100 plus climate change Annual Probability Flood event. This would be consistent with the plans for development elsewhere in the PMP and conform to current practice as at the Lower Bristol Road. It is submitted that the PMP should include objectives and strategies for leveraging new development to ensure that flood risk for existing residents and heritage is improved, in line with B&NES' moral and legal duty to protect them.

Flood maps for the Recreation Ground and the contiguous area:



6. Any necessary supporting evidence: No.

7. **Reasons why FoBRA should participate in the oral part of the Examination (or not).** In view of its technical nature and the wide effect on homes in Bath, FoBRA seeks to participate in the public hearings to make this presentation.