Cheshire West and Chester Level 1 SFRA - Appendix H

Final Legislation and Policy Summary for Flood and Water Management

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Prepared for:

Cheshire West and Chester Council

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1 Key legislation for flood and water management

1.1 Flood and Water Management Act (2010)

The Flood and Water Management Act (2010) (gov.uk) was passed in April 2010 following the recommendations made within the Pitt Review (2009) following the flooding in 2007. It aims to create a simpler and more effective means of managing both flood risk and coastal erosion, establishing the lead role for Local Authorities, as LLFAs, designed to manage local flood risk (from surface water, ground water and ordinary watercourses) and to provide a strategic overview role of all flood risk for the EA.

1.2 Water Framework Directive (2000)

The European Water Framework Directive (WFD) (2000) was transposed into English Law by the Water Environment Regulations (2017) (gov.uk). The WFD aims to deliver improvements across Europe in the management of water quality and water resources. This is enforced through a series of plans called River Basin Management Plans (RBMPs). The borough falls within the North West RBMP.

1.3 Flood Risk Regulations (2009)

The Flood Risk Regulations (FRRs) 2009 translated the European Union (EU) Floods Directive into UK law setting the requirement for Member States to complete an assessment of flood risk, known in England as a Preliminary Flood Risk Assessment (PFRA). This information was then used to identify areas where there is a significant risk of flooding (Flood Risk Areas), where States had to undertake Flood Risk and Hazard Mapping and produce Flood Risk Management Plans (FRMPs). This cycle was repeated on a six-yearly basis.

As of 1 January 2024, the Retained EU Law (Reform and Revocation) Bill automatically repealed any Retained EU Law (REUL) not otherwise preserved or replaced in UK law before the end of 2023, including the FRRs 2009 which transposed the EU Floods Directive into legislation. This is because much of the FRRs duplicated existing domestic legislation, namely the Flood and Water Management Act 2010.

The Government expects to see continued implementation of the Flood Risk Management Plans 2021-2027, with funding for this still in place over the six-year period.

1.3.1 Flood Risk Areas

There is one Flood Risk Area within the borough. Updated in December 2022, the North West river basin district flood risk management plan (covering the period 2021 to 2027), outlines the Ellesmere Port Rivers and Sea Flood Risk Area. The area includes Stanlow Oil Refinery, classed as national critical energy infrastructure. Risk is currently managed by

various RMAs. The EA monitor river and rainfall at three sites within the FRA. This data informs five Flood Warning Areas and the operational incident response of RMAs. There are earth embankments and tidal flap gates within the Stanlow Refinery site as well as a wetland flood storage area upstream. The Folly Gates tidal flap gates have been identified as a Category A Strategically Important Flood Risk Management Asset. The LLFA operate a tidal flap gate and pumping station on North Ditch, within the refinery site. There are currently no specific measures for managing flood risk in this area. The measures for the North West river basin district can be found on the EA's flood plan explorer.

1.4 Environmental permitting

The Environmental Permitting Regulations (2018) (gov.uk) set out where developers will need to apply for additional permission (as well as planning permission) to undertake works to an ordinary watercourse or main river. This includes flood risk activities, for example:

- On or within 8 metres of a main river.
- On or within 8 metres of a non-tidal flood defence structure or culvert.
- Involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert; and
- In a floodplain more than 8 metres from the riverbank, culvert or flood defence structure and you don't already have Planning Permission.

Environmental permits may also be required from the EA to discharge runoff, trade effluent or sewage into a main river. They may also be required in relation to groundwater activities, where there may be a risk of groundwater contamination.

1.5 Byelaws

Land Drainage Byelaws outline legal obligations and responsibilities when undertaking works on or close to a watercourse, for the purpose of preventing flooding, or mitigating any damage caused by flooding.

The borough is covered by the North West Byelaws enforced by the EA. These byelaws apply to activities around main rivers, flood defences and floodplains.

1.6 Additional legislation

Additional legislation relevant to development and flood risk in the borough include:

- Town and Country Planning Act (1990) (gov.uk), Water Industry Act (1991) (gov.uk), Land Drainage Act (1991) (gov.uk), Environment Act (1995) (gov.uk), which set out the regulations for development on land in England and Wales.
- The Environment Act 2021 (gov.uk) requires developers to provide Biodiversity Net Gain (BNG) and for LPAs to develop Local Nature Recovery Strategies (LNRS). Strategic site allocations in Local Plans which present opportunities for BNG or areas for habitat improvement/creation identified by the LNRS could have parallel opportunities to contribute to reduced flood risk from a range of sources.

- Other environmental legislation such as the Habitats Directive (1992) (gov.uk), Environmental Impact Assessment Directive (2014) (gov.uk), and The Environmental Assessment of Plans and Programmes (Amendment) Regulations 2020 (gov.uk) which apply as appropriate to strategic and site-specific developments to guard against environmental damage.
- The Planning and Compulsory Purchase Act (2004) (gov.uk) Section 19(1A) which requires LPAs to include in their Local Plans 'policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.'

2 Key national, regional and local policy documents and strategies

Table 2-1 summarises relevant national, regional, and local flood risk policy and strategy documents and how these apply to development and flood risk. Hyperlinks are provided to external documents. These documents may:

- Provide useful and specific local information to inform FRAs within the local area.
- Set the strategic policy and direction for flood risk management and drainage – they may contain policies and action plans that set out what future flood mitigation and climate change adaptation plans may affect a development site. A developer should seek to contribute in all instances to the strategic vision for flood risk management and drainage in the borough.
- Provide guidance and/or standards that inform how a developer should assess flood risk and/or design flood mitigation and SuDS.

The following sections provide further details on some of these documents and strategies.

Please note that the links to these documents may change over time and any requests for these documents should be directed toward the author.

Table 2-1: National, regional, and local flood risk policy and strategy documents

Policy level	Document, lead author and date	Contextual information	Policy and measures	Development design requirements	Next update due
National	Flood and Coastal Management Strategy (EA) 2020 (gov.uk)	Yes	Yes	No	2026
National	National Planning Policy Framework (NPPF) (gov.uk) updated in February 2025*	Yes	Yes	Yes	-
National	Planning Practice Guidance (PPG): Flood risk and coastal change (gov.uk) updated in September 2025	Yes	Yes	Yes	-
National	Building Regulations Part H (MHCLG) 2010 (gov.uk)	Yes	No	Yes	-
Regional	North West Inshore and North West	Yes	Yes	No	-

Policy level	Document, lead author and date	Contextual information	Policy and measures	Development design requirements	Next update due
	Offshore Marine Plan (2021)				
Regional	Weaver Gowy Catchment Flood Management Plan (EA) 2009 (gov.uk)	Yes	Yes	No	-
Regional	River Dee Catchment Flood Management Plan (EA) 2010 (gov.uk)	Yes	Yes	No	-
Regional	Mersey Estuary Catchment Flood Management Plan (EA) 2009 (gov.uk)	Yes	Yes	No	-
Regional	North West River Basin District River Management Plan (EA) 2022 (gov.uk)	Yes	Yes	No	2028
Regional	Dee River Basin District Flood Risk Management Plan (EA) 2022 (gov.uk)	Yes	Yes	No	2028
Regional	United Utilities Water Resources Management Plan (2024)	Yes	No	No	-
Regional	Dŵr Cymru Welsh Water Water Resources Management Plan (2024)	Yes	No	No	-
Regional	United Utilities Drainage and Wastewater management plan (2023)	Yes	No	No	2028
Regional	Dŵr Cymru Welsh Water Drainage and Wastewater management plan (2024)	Yes	No	No	2029
Regional	Climate change guidance for	Yes	No	Yes	-

Policy level	Document, lead author and date	Contextual information	Policy and measures	Development design requirements	Next update due
	development and flood risk (EA) last updated May 2022 (gov.uk)				
Local	Cheshire West and Chester Preliminary Flood Risk Assessment (2011)	Yes	No	No	-
Local	Cheshire West and Chester Preliminary Flood Risk Assessment Addendum (2017) (gov.uk)	Yes	No	No	-
Local	Cheshire West and Chester Local Flood Risk Management Strategy (2016)	Yes	Yes	No	-
*At the time of writing, consultation on the proposed reforms and further changes to the NPPF is ongoing, set to close on 10 March 2026.					

2.1 The National Flood and Coastal Erosion Risk Management Strategy for England

The National Flood and Coastal Erosion Risk Management Strategy for England (gov.uk) provides the overarching framework for future action by all RMAs to tackle flooding and coastal erosion in England. The Strategy looks ahead to 2100 and the actions needed to address the challenge of climate change.

The Strategy has been split into three high level ambitions:

- Climate resilient places.
- Today's growth and infrastructure resilient in tomorrow's climate.
- A nation ready to respond and adapt to flooding and coastal change.

The Strategy was laid before parliament in July 2020 for formal adoption and published alongside a Policy Statement for Flood and Coastal Erosion Risk Management (gov.uk).

It can be expected that the implementation of the National Strategy will lead to the publication of new guidance and practice that is focused on resilience and adaptation over the coming years. It will be important to adjust the content of the SFRA so that changes in approach are captured in the delivery of the Local Plan.

2.2 Catchment Flood Management Plans

Catchment Flood Management Plans (CFMPs) are high-level strategic plans providing an overview of flood risk across each river catchment. The EA use CFMPs to work with other key-decision makers to identify and agree long-term policies for sustainable flood risk management.

There are six pre-defined national policies provided in the CFMP guidance, and these are applied to specific locations through the identification of 'Policy Units'. These policies are intended to cover the full range of long-term flood risk management options that can be applied to different locations in the catchment.

Stanlow, Frodsham, Northwich, Winsford and rural areas are covered by the Weaver Gowy CFMP. The primary policy units for the area are:

- Preferred policy option 4 in the Stanlow and Frodsham area: Areas of low, moderate or high flood risk where we are already managing the flood risk effectively but where we may need to take further actions to keep pace with climate change
- Preferred policy option 5 in the Northwich area: Areas of moderate to high flood risk where we can generally take further action to reduce flood risk
- Preferred policy option 3 in the Winsford area: Areas of low to moderate flood risk where we are generally managing existing flood risk effectively
- Preferred policy option 6 in rural areas: Areas of low to moderate flood risk where we will take action with others to store water or manage run-off in locations that provide overall flood risk reduction or environmental benefits.

The Alyn Valley, Deeside, Lower Dee and Chester areas are covered by the River Dee CFMP. The primary policy units for the area are:

- Preferred policy option 5 in the Deeside and Chester area: Areas of moderate to high flood risk where we can generally take further action to reduce flood risk
- Preferred policy option 3 in the Alyn Valley and Lower Dee area: Areas of low to moderate flood risk where we are generally managing existing flood risk effectively.

The Ince, Ellesmere Port and Neston areas are covered by the Mersey Estuary CFMP. The primary policy units for the area are:

- Preferred policy option 2 in the Ince area: Areas of low to moderate flood risk where we can generally reduce existing flood risk management actions
- Preferred policy option 3 in the Ellesmere Port area: Areas of low to moderate flood risk where we are generally managing existing flood risk effectively.
- Preferred policy option 6 in the Neston area: Areas of low to moderate flood risk where we will take action with others to store water or manage run-off in locations that provide overall flood risk reduction or environmental benefits.

2.3 Local Flood Risk Management Strategy

Local Flood Risk Management Strategies (LFRMS) set out how the LLFA will manage local flood risk i.e. surface water runoff, groundwater, and ordinary watercourses, for which they have a responsibility, and the work that other RMAs are doing to manage flood risk across the borough.

The Cheshire West and Chester Local Flood Risk Management Strategy was published in 2016. It contains an assessment of flood risk in the borough, risk management authority responsibilities, flood risk management functions, LLFA structure, information on preparedness, emergency response and resource management. The document also includes a list of local flood risk management objectives set by the Council and an action plan, containing 33 proposed actions, to satisfy these objectives. The LFRMS objectives include:

1. Understand the risks of flooding and coastal erosion and work towards putting long-term plans into place to manage the risks and make sure that other plans take account of them
2. Avoid inappropriate development in areas of flood and coastal erosion risk and being careful to manage land elsewhere to avoid increasing risks
3. Build, maintain and improve flood and coastal erosion management infrastructure and systems to reduce the likelihood of harm to people and damage to the economy, environment and society
4. Increase public awareness of the risk that remains and engaging with people at risk to encourage them to take action to manage the risks that they face and to make their property more resilient
5. Preparing for and dealing with local flood incidents and ensuring that the multi-agency emergency response plan is properly deployed in response to flood emergencies

2.4 Local policy and guidance for SuDS

The NPPF states that: '*Applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal*.' (Paragraph 182) and *'development should only be allowed in areas at risk of flooding where… it can be demonstrated that… c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate*' (Paragraph 181).

At the time of writing, the following documents and policies are relevant to SuDS and surface water in the borough. Hyperlinks are provided to external documents:

- Defra National standards for sustainable drainage systems (gov.uk), 2025.
- SuDS Manual (C753) (ciria.org), published in 2007 and updated in 2015.
- Building Regulations Part H (MHCLG) (gov.uk), 2010.
- Cheshire West and Chester Council SuDS guidance, 2020.
- Adopted Local Plan (Part One) Policy ENV1: Flood risk and water management

- Adopted Local Plan (Part Two) Policy DM 41: Sustainable Drainage Systems (SuDS)

Further information on SuDS requirements and design considerations can be found in Section 9 of the main report.

2.5 Water Cycle Studies

Water Cycle Studies (WCSs) assist local authorities to select and develop growth proposals that minimise impacts on the environment, water quality, water resources, infrastructure, and flood risk and help to identify ways of mitigating such impacts.

The Cheshire West and Chester Water Cycle Strategy was published in 2010. It analyses how water resources, wastewater treatment, water quality, sewerage, and flood risk might limit growth within the study area. It presents the location and severity of these constraints, along with recommendations to address them and an assessment of their impact on growth. The recommendations published within the WCS were:

- Collaborative working
- Single flood risk assessment for Ellesmere Port docks
- Include requirements for SuDS in new developments
- Develop Surface Water Management Plans (SWMPs) for Chester and Neston
- Include water efficiency in local development policies
- Continue working with water companies to align growth and wastewater asset plans
- Include policy requirements to contribute to environmental enhancements.

Under the current NPPF (2024), SuDS are required as outlined in paragraph 182. The adopted Cheshire West and Chester Local Plan (Part One) Strategic Policies includes for water efficiency and environmental enhancements through development policy ENV1 Flood Risk and Water; and ENV3 Green Infrastructure.

2.6 Surface Water Management Plans (SWMPs)

Surface Water Management Plans (SWMPs) outline the preferred surface water management strategy in a given location and establish a long-term action plan to manage surface water in a particular area. They are intended to influence future capital investment, drainage maintenance, public engagement and understanding, land-use planning, emergency planning, and future developments.

There is not currently a SWMP for Cheshire West and Chester.

2.7 Water Resource Management Plans (WRMPs)

Under the duties set out in sections 37A to 37D of the Water Industry Act 1991, all water companies across England and Wales must prepare and maintain a WRMP. This must be prepared at least every five years and reviewed annually.

WRMPs should set out how a water company intends to achieve a secure supply of water for their customers and a protected and enhanced environment. The WRMPs that cover the borough are:

- United Utilities - Water Resources Management Plan (2024)
- Dŵr Cymru Welsh Water - Water Resources Management Plan (2024)

2.8 Drainage and Wastewater Management Plans (DWMPs)

Water and sewage companies must produce a Drainage and Wastewater Management Plan (DWMP), covering a minimum of 25 years, which looks at current and future capacity, pressures, and risks to their networks such as climate change and population growth. They detail how a company plans to work with RMAs and drainage asset owners to manage future pressures. The water and sewage companies for the borough are United Utilities and Dŵr Cymru Welsh Water. The DWMPs that cover the borough are:

- United Utilities Drainage and Wastewater management plan (2023)
- Dŵr Cymru Welsh Water Drainage and Wastewater management plan (2024)

2.9 Shoreline Management Plans (SMPs)

Shoreline Management Plans (SMPs) form part of Defra's strategy for flood and coastal defence. They provide a large-scale assessment of risks associated with coastal evolution and present the policy framework to address these risks in a sustainable manner. The SMP policies defined by Defra are:

- Hold the line - maintain or upgrade the level of protection provided by defences.
- Advance the line - build new defences seaward of the existing defence line.
- Managed realignment - allowing retreat of the shoreline, with management to control or limit the movement.
- No active intervention - a decision not to invest in providing or maintaining defences.

The SMPs set short (0-20 years), medium (20-50 years), and long term (50-100 years) coastal management policies for the next 100 years for specific lengths of coastline. Not all policies are guaranteed funding and over time the EA along with other partners will identify the cost.

The SMPs are, at the time of writing, are undergoing a refresh due to changes in evidence, guidance, and policy since they were initially approved in 2016. The refresh aims to:

- Provide guidance on how SMPs can incorporate new knowledge, legislation, and guidance.
- Improve overall quality, deliverability, and consistent application of key principles across SMPs but recognising local nuances.
- Ensure shoreline management plans remain technically robust but adaptable to future change.

- Promote the principle that SMPs should be 'living' and provide a clearly defined route-map with actions to be 'epoch-2 ready' (epoch 2 is roughly from 2030) and enable delivery of the policies over the coming decades.

The coastline within the borough is covered by SMP22: Great Ormes Head to Scotland. The borough falls into area 11A: Llandudno to Southport. Four sub-areas (policy units) cover the coastline; 11A5.3 Flint Marsh to Chester Weir to Sealand Rifle Range (Inner Dee estuary, both banks), 11A5.4 Sealand Rifle Range to Burton Point, 11A5.5 Burton Point to Thurstaston Cliffs and 11A7.3 Eastham Ferry to Runcorn Bridge (south bank). The summary management approaches for these sub-areas are detailed below.

- Unit 11A5.3: Maintain existing defences into the long term. Potential for secondary set-back defence to be built for flood storage or habitat creation, depending on outcome of further studies.
- Unit 11A5.4: Maintain defence in the short term. Investigate a phased approach to setting-back defences which could defer loss of the rifle range to the long term. Implement set-back when feasible in the medium term.
- Unit 11A5.5: Provide for future natural shoreline evolution, except where local defence measures are required to protect people, property and local infrastructure.
- Unit 11A7.3: Provide for management of shoreline defences to reduce flood and erosion risk to people, property, local infrastructure and industrial developments. Potential for damage to internationally designated sites in long term that need to be offset elsewhere in the SMP.

2.10 Additional guidance sections

2.10.1 Neighbourhood plans

A neighbourhood plan is a document produced by a local community that sets out planning policies for their area and can be used to:

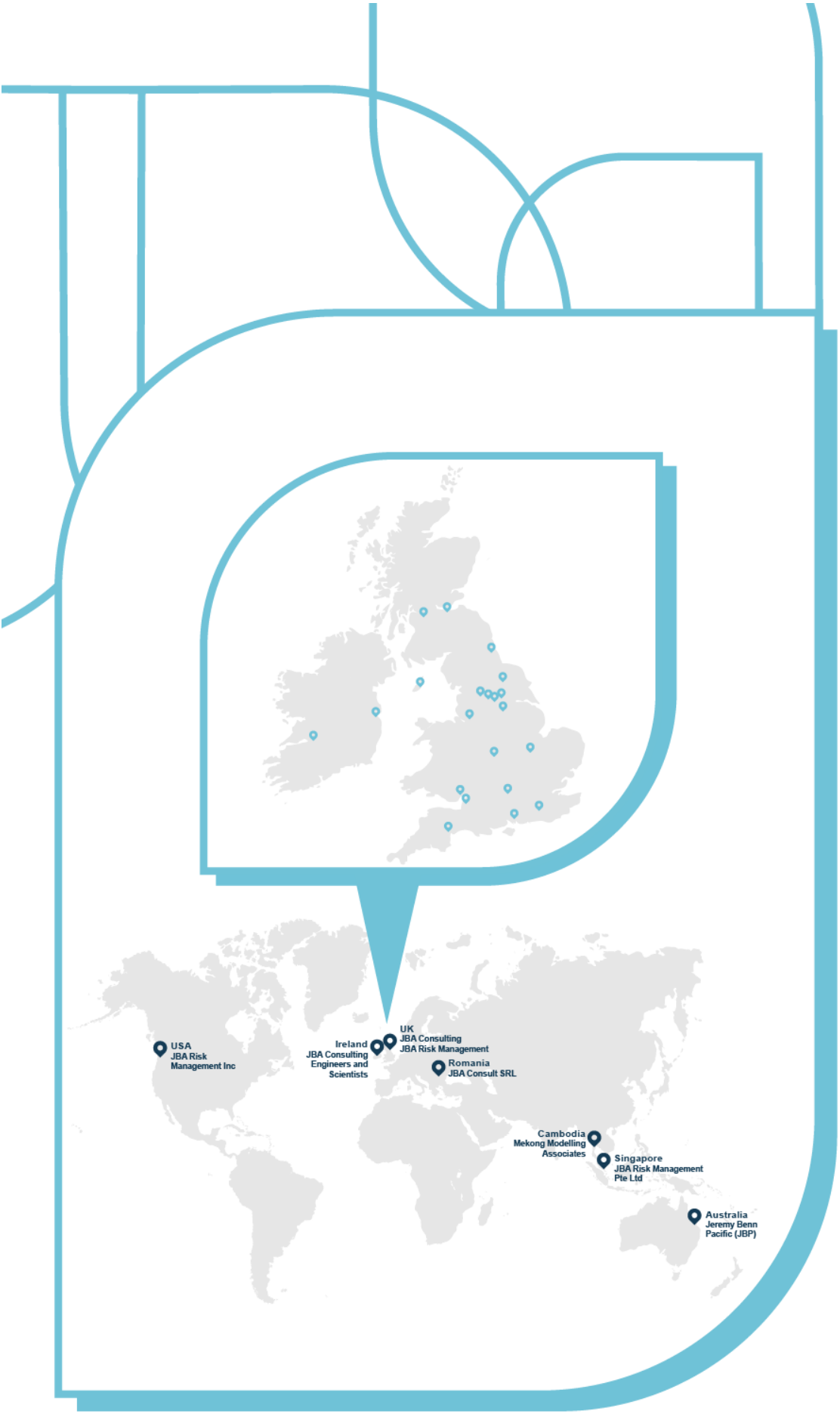
- Protect local green spaces;
- Encourage better designed places;
- Bring forward housing that meets local needs.

Neighbourhood planning groups can use the information in this SFRA to assess the risk of flooding to sites within their community.

There are currently 27 made neighbourhood plans within the borough. A further 13 areas are designated neighbourhood areas. The status of current neighbourhood plans within the Cheshire West and Chester borough can be found via the Neighbourhood Planning page of the Council's website.

2.10.2 Additional guidance sections

Additional guidance and supplementary planning documents can be found on the Planning Policy page of the Cheshire West and Chester Council website.



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