

ASHFORD BOROUGH COUNCIL

Examination of Ashford Local Plan 2030

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INSPECTORS' ISSUES AND QUESTIONS

Issue 16:

Are the topic policies for the natural and built environment justified, deliverable and consistent with national policy? Will they be effective?

Natural Environment

i) Is Policy ENV1 consistent with paragraphs 113, 117 and 118 of the NPPF? In particular, does it make an appropriate distinction between the hierarchy of designated sites so that protection is commensurate with their status and fully recognises the role of mitigation? Is it clear to which parts of the policy the sixth paragraph relates and does this lead to any contradiction and inconsistency with what comes before? Is it justifiable to ask for financial contributions 'in lieu' of mitigation or is the intention for this to refer to financial contributions in lieu of on-site mitigation?

Natural England should be able to advise on the first 3 questions.

Last question - Given that this is a form of biodiversity offsetting, then we consider this is justifiable.

It is also in line with new proposals being developed in Kent to promote the conservation of Great Crested Newts by means of a District Licensing Scheme. This will entail developers making contributions to the scheme to permit them to carry out work in areas likely to be occupied by Great Crested Newts without the need for a site-specific licence, as at present.

iv) Is Policy ENV4 too prescriptive, particularly in terms of specifying such things as beam angles? Is this likely to provide sufficient flexibility to address individual circumstances? What is the justification for identifying the area as a 'dark sky zone' and would the policy be effective in delivering this aspiration?

If the details provided in ENV4 are in line with the guidance mentioned then no, they are not too prescriptive

Where there are rivers or other watercourses affected by this policy, reference to the Institute of Lighting Professionals (formerly the Institute of Lighting Engineers) "Guidance Notes For the Reduction of Obtrusive Light"

(<https://www.theilp.org.uk/documents/obtrusive-light/guidance-notes-light-pollution-2011.pdf>) would be appropriate.

vi) Is Policy ENV6 consistent with paragraphs 100-105 in the NPPF and is it sufficiently clear to be effective? Is the preference for development in Flood Zone 1 relevant or appropriate to all types of development? What is the justification for a separate set of criteria for development which has failed the sequential and exception tests and do some of the criteria duplicate what is already required in these tests in any event?

The aim of the Sequential Test is to direct all development to the lowest flood risk area and therefore it is reasonable to state a preference for all development to be in FZ1.

Criteria (a-f) outlined in ENV6 (Flood Risk) basically repeats the requirements of the Exception Test. The policy states that 'In exceptional circumstance where the tests cannot be met...' However if criteria (a-f) are to only apply to brownfield land where there are no alternative sites in a lower flood risk zone, it is likely that the Sequential Test can be demonstrated so it is probably not necessary include this sentence but to merely state that where necessary the ST will be demonstrated for essential transport and utility infrastructure on brownfield land and the ET will then apply as required under NPPF.

vii) Is Policy ENV8 too prescriptive with regard to connection to the sewerage system for all developments, particularly for housing in rural areas? Would this policy restrict development that otherwise accords with other policies, including HOU5, EMP4 and EMP5? How would the reduction in quality and quantity of the water supply be assessed and is it justifiable for any reduction to lead to refusal?

In answer to the first 2 questions we have also brought this matter to the attention of the Council. In discussion with the Council, we have proposed alternative wording that has been agreed in our Statement of Common Ground.

It should be noted that any new proposals should ensure that Foul and Surface water drainage design will achieve appropriate protection of groundwater.

In the case of limited mains sewer provision, we would object to major development sites that do not tie into upgrade of sewer capacity in the area. This is for the Council and utility company to manage in terms of timing for release of permissions for sites being developed. This is particularly important in stressed groundwater catchments and where nitrogen vulnerable zone are evident.

Discharges within Source Protection Zones (potable water supplies) and deep infiltration drainage designs will require an environmental permit. However we cannot guarantee that a permit would be issued. The assessment process assesses individual discharges, but also has to look at cumulative discharges in a

specific area. There may already be a number of such discharges in this locality and it cannot be presumed that additional discharges to ground would be acceptable without impacting groundwater quality and impacts on abstracted water for public supply. The applicant should submit sufficient information to show that a permit could be achieved for any design of foul drainage.

Regarding the last question, looking at the quality aspect, from our perspective justifying a refusal is based on the following.

Sites overlying Source Protection Zones (potable water supplies) or Principal Aquifers, would be required to submit site specific investigation to help the Council with our support assess the potential risk to the quality of the underlying groundwater. Where the proposal is likely to have a direct impact on the under groundwater, for example where a pathway is created for historic contamination to reach the groundwater or the proposal itself will result in direct impact on the groundwater we would object.

Once the groundwater is polluted it is no longer fit for consumption. Principal aquifers can be future potable sources so these have to be protected also. It is extremely difficult to remediate polluted groundwater; can take an extremely long time recover; and will be costly to the polluter.

It is the developers duty under separate environmental legislation to not cause or knowingly permit pollution of the environment, harm to human health or detriment to the amenity of the area around the development.

We would always refer Developers to our guidance <https://www.gov.uk/government/collections/groundwater-protection>

In relation to quantity – this is more a matter for Kent County Council as the Lead Local Flood Authority review the surface water management plans for development proposals and the water supplier, South East Water.

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