

**Issue 16:**

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

***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?***

1. Policy ENV1 is consistent with paragraph 113 of the NPPF in that it makes provision for protection commensurate with status. This is reflected in the different approach to development set out in paragraphs 3 to 5. These paragraphs make a distinction based on hierarchy between different designations and requires that development proposals respond accordingly.
2. In accordance with paragraph 117 of the NPPF, paragraphs 1 & 2 of policy ENV1 highlight the importance of utilising opportunities to improve biodiversity across broad networks, recognising the role of corridors and stepping stones in contributing to biodiversity and seeking to safeguard them. Paragraph 1, 2 and 7 of ENV1 support the improvement to BAP priority habitats and networks of ecological interest and, calls for development to retain, protect and enhance such habitats.
3. Paragraphs 3-6 of policy ENV1 address the requirements set out in paragraph 118 of the NPPF, which outlines the approach that authorities should take in aiming to conserve and enhance biodiversity. The policy mirrors paragraph 118,

by requiring that development in protected areas that would cause harm be refused unless there are exceptional circumstances.

4. It is agreed that Paragraph 6 could be clearer as it does not apply to the European sites, Ramsar sites, SPA sites and Special Areas of Conservation. In such areas any adverse effect is not permitted under any circumstances. On this basis it is suggested that the following sentence be added to the end of the 6<sup>th</sup> policy paragraph:-

*This does not apply to the European sites, Ramsar sites, Special Protection Area sites and Special Areas of Conservation sites.*

5. The Council agrees that, in addition, the final sentence of paragraph 6 should be amended to read:.... *in lieu of on-site mitigation*.....

***ii) Is the difference between the types of development considered in the second and third paragraphs of Policy ENV2 sufficiently clear to make the policy effective? Is it reasonable to expect all development on the edge of the Green Corridor to make a positive contribution to the factors listed?***

6. The Council agrees that the wording of this policy at paragraphs 2 & 3 is ambiguous with regards to what is considered to be development 'relating to' an existing use and is not consistent with the preceding text at paragraphs 5.307 and 5.308.
7. The intention of this policy wording was to differentiate between a use which was an extension to or ancillary to the current principal use which would be acceptable in principle in paragraph 2, between a use which may be considered 'related to' the current use but not ancillary to it. However, the council considers that paragraph three of the policy deals with this issue effectively without the need for the reference to 'related' uses and therefore the council proposes a minor wording change to this policy to address this issue (see below).

8. With regards to the requirement that all development adjoining the Green Corridor being expected to make a positive contribution to all the factors listed, this is considered reasonable as the criteria has been adopted in Council policy for some time, originating in the Local Plan 2000 (Policy EN14), which was superseded by duplicate policies in both the Town Centre Area Action Plan (Policy TC26) and the Urban Sites and Infrastructure DPD (Policy U21) which remain adopted.
9. The Council considers that this criteria is an essential part of the policy as it has provided improvements to the green corridor network for many years. This has involved securing extension areas to the corridor as part of developments which adjoin the network on the urban edge, and secured financial contributions towards projects which positively contribute to the overall function of the network, including the provision of new cycle paths and footways, biodiversity improvements to the rivers, maintenance and planting. These projects, and identified future projects, enable this important Green Infrastructure in the Ashford urban area to be maintained and improved.
10. However, the supporting text of the currently adopted policies does elaborate further on what would be considered to form the positive contribution required, and focuses this more on the 'setting and appearance' and providing linkages to the movement network with regards to sites which adjoin the green corridor and therefore the council proposes the following minor amendments to this policy and its supporting text for the Inspectors to consider:

*5.310 All development proposals on land within or adjoining the Green Corridor designation must demonstrate that the proposal would not harm the overall environment, biodiversity value, visual amenity, movement networks or existing functions of the Green Corridor. All proposals within must make a positive contribution to the Green Corridor in respect of its environment, biodiversity, visual amenity, movement networks or functioning ~~and~~. Development on sites adjoining the corridor must also take into account its impact on the setting as design of these sites can have a significant effect on the character and*

appearance of the Corridor. Positive enhancements in this regard, along with improvements to the movement network and other key functions will be encouraged.

#### *Policy ENV2 - The Ashford Green Corridor*

*The protection and enhancement of Ashford's Green Corridor is a key objective.*

*Development proposals within the identified Corridor designation (and proposed extensions) will be permitted, providing that it is compatible with, or ancillary to, their principal open space use or other existing uses ~~within them~~, and it can be demonstrated that the proposal would not harm the of the overall environment, biodiversity, visual amenity, movement networks or functioning of the Green Corridor.*

*Other forms of development proposals ~~including those relating to an existing use~~ within the Green Corridor will not be permitted, unless it would be in accordance with a site specific policy in this Local Plan; or where it relates to a) the redevelopment of a suitable brownfield site or b) delivers overriding benefits, and in either scenario, that it can be demonstrated that there would be no significant harm to the environment, biodiversity, visual amenity, movement networks or function of the Green Corridor.*

*Development proposals on land adjoining the Green Corridor shall provide suitable access and links to the existing movement networks of the adjoining Green Corridor wherever possible, must not harm any of the key features and functions and should make a positive contribution to the Green Corridor in respect of its environment, biodiversity, visual amenity, movement networks or functioning and its setting.*

*Development proposals must take into consideration the appraisals, projects and management recommendations set out for the specific areas in the Ashford Green Corridor Action Plan, including the identified proposed extension areas to the designation.*

**iii) In Policy ENV3b, is it justified to expect development within the AONB to 'conserve and enhance' the character of the landscape in the first bullet point? Is it justified to expect all development within an AONB to 'enhance' their special qualities? Is this consistent with the first paragraph of the policy?**

11. Paragraph 17 bullet point 7 of the NPPF places the conservation and enhancement of the natural environment at the heart of planning policy. Local Planning Authorities have a duty to regard all relevant legislation and therefore policy ENV3b responds to the NPPF as well as broader legislation. Specifically section 85 of the Countryside and Rights of Way Act 2000, which requires relevant authorities *"to have regard to the purpose of conserving and enhancing land in an AONB in exercising or performing any functions in relation to, or so as to affect, land in an AONB"*. This is confirmed in the NPPG (para 003 Reference ID:8-003-20140306) and is the statutory basis for policy for AONBs. In addition, the Environment Act 1995 introduced the phrase 'conserve and enhance' in place of 'protect and enhance' in relation to duties of local authorities, the Environment Agency and other bodies. No statutory duties were placed on local authorities actively to manage AONBs in any particular way. It is however accepted that the use of conserve and where appropriate, enhance is a more realistic expectation, and therefore it is recommended that for consistency the wording of the first bullet point be changes as follows:

*"The location, form, scale materials and design would conserve ~~and enhance~~, and where appropriate enhance or restore the character of the landscape."*

**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?**

12. This issue is outlined more amply in the Council's adopted Dark Skies SPD, which also includes design guidance applicants may use to address their

individual circumstances. This is allowed for in the current policy wording within parameters that address the issue of obtrusive lighting. The Council is concerned at the diminishing number of locations unaffected by light pollution. There is always a need to consider in general and technical terms the impact of external lighting on the environment in the determination of planning applications, and the Council has produced expanded supplementary guidance on how to achieve this.

13. This is a policy response to the issue of light pollution, defined as light that is wasted upwards and reflects off the atmosphere, causing the visible blanket cover that hangs over major cities at night. It also aims to alleviate the health and wellbeing and environmental impacts caused by other obtrusive lighting, including glare and light trespass. Such a response is positively encouraged in the NPPF (paragraph 125) and PPG.
  
14. CPRE data produced in preparation of its publication “Night Blight” (June 2016) indicated that a contiguous Parish area within the borough (Wittersham to Aldington) possessed some of the darkest skies in the South East of England. Recognising the value of intrinsically dark skies – as highlighted in the NPPF – but balancing this with the need for growth and development, the Council’s guidance positively plans for appropriate external lighting that seeks to enable the functioning of daily life without impacting on this precious resource. Furthermore, the Council – along with the Ashford Astronomical Society – is facilitating an International Dark Sky Community (IDSC) application from these combined Parishes to the International Dark Sky Association (IDA). The IDA has been supportive of the Council’s planning policy guidance, but seeks the production of a) a lighting code for Parish-owned lighting; b) the establishment of an upper-limit for external lighting per planning application. These have both been produced. In addition to its planning policy, the Council has developed a number of standard planning conditions relating to obtrusive lighting.
  
15. The impact of obtrusive lighting can be managed in certain important ways, including controlling the type of light source, and the use fully cut-off luminaires, as outlined in the SPD. Management of beam angle is similarly crucial, since high angles are seldom necessary for external lighting that goes through the planning

system, and often result in light trespass. Furthermore, angles much higher than 70 degrees begin to contribute to sky glow quite considerably as the angle increases beyond this point. Guidance on recommended source intensity at different angles are also provided in the Dark Skies SPD.

**v) To what extent are the features included Policy ENV5 protected by other policies in the plan? What is the justification for selecting these particular features and not others? Is the policy consistent with the NPPF, including paragraph 118, in terms assessing impact, mitigation and the benefits of development?**

16. ABC has developed its environmental policies following longstanding engagement with partner organisations and groups who have engaged in a variety of projects and studies relating to the rural and natural environment. Much work, particularly by the Kent Downs and High Weald AONB Units, has highlighted the particular importance of a number of rural features that constitute their areas, many of these surpassing landscape character (as outlined in Policies ENV3a and b) to cover a range of environmental, social and cultural outcomes.
17. These features play a particular role in establishing rural character, as highlighted in the increased importance placed on Ancient Woodland in the current consultation version of the NPPF. Furthermore, rural lanes and public rights of way are fundamentally important features in enabling access to and enjoyment of the intrinsic beauty of the countryside.
18. Those features defined in Policy ENV5 have been identified for a number of years in Ashford's planning policy documentation (current Policy TRS18 in the Tenterden and Rural Sites DPD) as distinctive in their own right and deserving of special protection, and often constituting important networks and corridors for people, wildlife and even ideas. These provide positive biodiversity, health and wellbeing and historical-cultural benefit. The Inspector for the Tenterden and Rural Sites DPD supported this, noting that, "*The Policy rightly emphasises valued elements of local distinctiveness which are found widely in the countryside of the Borough*".

19. A number of these features have been identified within the NPPF (e.g. paragraph 118) as deserving of particular attention and protection in their own right, and it is not considered that the policy as written is incompatible with national policy as detailed in Paragraph 118 NPPF, since this clearly states that planning permission involving the loss or deterioration of such features should be refused save for exceptional circumstances. In cases where such features could be threatened, it is appropriate to highlight in Policy ENV5 the high and varied significance associated with those features listed therein, with any conceivable mitigation having to encompass environmental, social and cultural contributions already provided by these key features.

**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?**

20. Policy ENV6 is consistent with NPPF paragraphs 100-105, and PPG relating to Flood Risk and Coastal Change. National guidance aims at “*directing development away from areas at highest risk*” (NPPF paragraph 100), which broadly corresponds with a preference for allocation in Flood Zone 1. Policy ENV6, supported by national policy, concedes that it is not always possible, nor is it always spatially appropriate, to completely avoid development on sites at higher flood risk. Background documentation, including the Strategic Flood Risk Assessment (SFRA; NBD01) and Water Cycle Study (NBD05) have informed this policy, as well as the selection of allocated sites, through the application of the sequential test, to “*steer new development to areas with the lowest probability of flooding*” (NPPF paragraph 101) and, where appropriate, the exception test.

21. Policy ENV6 does not seek to provide a set of criteria in cases where a site has failed both the sequential and exception tests but, building on the Exception Test, it seeks to highlight the importance of considering a number of additional design

and specification points to diminish on-site flood risk from an early stage of planning, responding to the requirements of statutory partners. These issues, as outlined in the Council's Sustainable Drainage SPD, and found in the policy and position documentation of partner organisations (Environment Agency, KCC as Lead Local Flood Authority), stress the critical nature of reducing surface water flows in particular, which is dependent on the clear and regular maintenance schedules (as per PPG Reference ID: 7-038-20140306 and 7-081-20150323), arrangements and responsibilities for flood mitigation apparatus.

22. It is noted, however, that the wording of the policy could articulate its requirements more clearly, ensuring that it is understood that the requirements of these criteria form part of rather than additions to the exception text, as follows:

*“In exceptional circumstances, where the sequential tests ~~above~~ cannot be met, essential transport or utility infrastructure, or other development on brownfield sites may be allowed if the development is designed to be compatible with potential flood conditions, and:...”*

23. Furthermore, to enable the better flow of the Policy, it is recommended that the current third paragraph should be moved ahead of the current second paragraph.

**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?**

24. Southern Water is the statutory sewerage undertaker providing wastewater services to the Ashford Borough. Water and sewerage companies have a statutory obligation to provide capacity for new development, and to comply with environmental permits from the Environment Agency.

25. As previously highlighted, and as outlined in the Water Cycle Study (NBD05), the Ashford Water Group has been influential in developing this policy. The preferred and most sustainable position, for a range of environmental and procedural reasons, is that development should make every effort to connect to the mains sewerage system so that wastewater and surface water can be dealt with in an integrated way for the perpetuity of the development.
26. While some rural development may be serviced by septic tanks, infiltration, or other disposal systems, these are clearly exceptions in both sustainability and policy terms. The Environment Agency, the regulating authority for water discharge, makes it clear in its *“approach to groundwater protection”* (February 2018 Version 1.2) that it *“does not encourage the use of cesspools or cesspits, other than in exceptional circumstances”*, and requires stiff tests when considering the issuing of permits that applicants must prove it is unreasonable to connect to a mains sewer.
27. This is to ensure the adequate safeguarding of water resources through the plan period.
28. To this end, the Council proposes a slight amendment to Policy ENV8 as follows:  
*“All development proposals must provide a connection to the sewerage system at the nearest point of adequate capacity, as advised by the service provider, wherever possible and ensure future access to the existing sewerage systems for maintenance and upsizing purposes.”*
29. In terms of water quality, this is a key indicator of the health of the water environment, and a key component in a holistic consideration of water issues in planning. Good quality water can support and enhance an abundance of biodiversity and has a higher value for recreation and amenity use. As highlighted within the supporting text of Policy ENV8, and within the Water Cycle Study (NBD05), the Water Framework Directive (2000/60/EC) remains the key legislative instrument driving an improvement in water quality (Reference ID: 34-001-20161116), and is delivered through River Basin Management Planning, administered by the Environment Agency. The UK has been split into several

River Basin Districts (RBDs), and Ashford Borough is split between the South East and Thames RBDs. Each River Basin District has been characterised into smaller management units known as Water Bodies, with those relevant to this Borough found in the Water Cycle Study.

30. It is worth highlighting that the water supply resources within the Borough's boundaries are exclusively drawn from groundwater sources, and therefore the context for Policy ENV8 relates to those elements of the water supply that is sourced from within the borough's boundaries. While the borough's water can be and, in many cases, is supplied from sources outside the borough (e.g. Bewl reservoir), and therefore not covered by this Plan, this is not necessarily the same as 'groundwater resources' that the policy seeks to protect. Consequently, a clarification is required in Paragraph 5.344 as follows:

*"New development must ensure that there are no direct or indirect adverse effects on the quality of water supplies sources in the borough."*

31. Given the intense pressure on water resources (including a clear link between over-abstraction and deterioration in water quality) and, as recommended by PPG (Reference ID: 34-014-20140306), ABC continues to work with the Environment Agency (and related partners, as part of the Ashford Water Group) on catchment-based constraints and opportunities, including within the scope of its environmental permitting regime.

***viii) Does criterion a) of Policy ENV9 duplicate the requirements of policies ENV6 and ENV8? If so, are the requirements consistent? Are criteria b) – j) likely to be applicable and achievable for all forms of development and SuDS? This policy is directed to all development as referred to in paragraph 5.360. Is this reasonable?***

32. The intention through Policy ENV9 is specifically to address the risk of flooding via surface water. While the Council considers it important to assess the water cycle as a whole, given its structural integration, for discursive and practical reasons this is often split into consideration of water supply, wastewater, flooding and surface water. It is accepted that criterion a) could be made more specific to

the policy issue, responding to flooding from surface water sources, rather than flooding more generally. However, it is important that the design and construction of SuDS features contributes to all of those issues highlighted in criterion a, and expanded upon in the accompanying Water Cycle Study (NBD05).

33. Chapter 13 of the Water Cycle Study outlines the Council's approach to the provision of SuDS in developments. As previously outlined, in the response to Issue 10, xiii, there is a long history of consideration of water and water environments in Ashford, which has come through very strongly in its previous and current planning policy. The Sustainable Drainage SPD (2010), supporting Policy CS20 of the Core Strategy (2008), and used as a model by KCC as Lead Local Flood Authority and by the Environment Agency, ensured all new developments were designed to reduce the risk of flooding, and maximise environmental gains, which include or touch upon all those aspects outlined in criterion a, and actually served to reduce runoff and flood risk from surface water.
34. Following the Pitt Review (2008), the Flood and Water Management Act 2010 paid special attention to surface water issues and SuDS, establishing the principle of a SuDS approval body (SAB) in its Schedule 3. This was never enacted, but the Lead Local Flood Authority (LLFA) became the statutory consultee on major developments relating to surface water and its disposal. However, the Written Ministerial Statement on 18 December 2014 by the Secretary of State for Communities and Local Government, made changes to the NPPF expecting that *'sustainable drainage systems will be provided in new developments wherever this is appropriate'*. These changes came into effect on the 6th April 2015. There is clearly the potential impact of cumulative minor development on flood risk, and the LLFA's policy statement notes that minor development has *"the potential to result in significant increases in flood risk associated with ordinary watercourses or in areas of existing drainage problems."* Furthermore, many sections of the General Permitted Development (England) Order 2015 specifically require even the most minor of household developments to ensure *"provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse."* In

this context, the application of this policy to all development is, therefore, reasonable.

35. A Discharge Rates Assessment (NBD01) produced for the Council by JBA sought to understand the achievability of reducing discharge rates to greenfield equivalent or 4l/s/ha (the current SPD target) on smaller sites. It was demonstrated that 4l/s/ha was difficult to achieve, but that reductions were actually possible on over 96 percent of sites. Importantly, however, it was demonstrated that over-attenuation was possible on over 86 percent of sites in the borough. This has informed the guidelines contained within this Policy's reasoned justification.

36. The remaining criteria b-j are considered to be applicable and achievable for all types of development, proportionate to its type and quantum. These provide the flexibility to be equally applicable to minor and major development, and accord with the NPPF (paragraphs 100, 103, 109) and PPG. The criteria are equally compatible with the LLFA's Drainage and Planning Policy Statement (2017), and industry guidance such as CIRIA SuDS Manual (C753), 2015.

***ix) Does Policy ENV10 contain an appropriate balance between maximising renewable and low carbon energy development while ensuring adverse impacts are addressed satisfactorily? Is the policy based on robust and up-to-date assessment of what might be deliverable? What is the justification for the submission of a Sustainability Assessment and what bearing would it have on decision making, particularly where developments meet criteria a)-e)? For effectiveness, should the reference to the production of Landscape and Visual Impact Assessments be included in the policy?***

37. ENV10 is a permissive policy that encourages maximising renewable and low carbon energy development in the borough in locations where the local environmental impact is acceptable. In drawing up Policy ENV10 the Council had regard to the local potential for renewable and low carbon energy generation in

line with NPPG paragraph 003 Reference ID: 5-003-20140306. The supporting text to this policy (paragraphs 5.370 – 5.381) assesses the local renewable and low carbon energy generation position. In this regard representations from both the High Weald and Kent Downs AONB Units at the Regulation 19 Consultation raised the potential for the sustainable management of woodland in the borough. This is an issue already promoted in both AONB Management Plans given the prevalence of sweet chestnut coppices in this area, historically used for pit props, hop poles and paper mills, and which are emerging as a significant resource for low carbon energy for heating and power. The potential for biomass fuel, particularly wood fuel, in providing a sustainable source of energy was therefore added to this section of the Local Plan.

38. In compliance with NPPG guidance (paragraph 007 Reference ID: 5-007-20140306) Policy ENV10 is based on clear criteria to ensure that adverse impacts of energy infrastructure are addressed. In particular, the Policy makes clear that the need for renewable or low carbon energy does not automatically override environmental protections, including designated landscapes and heritage assets, and that development does not generate unacceptable impacts on nearby residents. In this regard, it is accepted that the production of a LVIA in planning applications for proposals to generate energy from renewable and low carbon sources, should be included in the policy itself where it is of a scale to warrant such an approach. In addition, changes to the supporting text will also be needed (paragraph 5.374).

39. Propose amendment to Policy ENV10: ***Planning permission applications for proposals to generate energy from renewable and low carbon sources should be, where justified, informed by a Landscape and Visual Impact Assessment and will be permitted provided that...***

40. The requirement for the 'sustainability assessment' was intended to be a method of providing information to the decision maker as to the various social, environmental and economic benefits associated with the proposal against the broad criteria listed under Policy ENV10. The intention was for the Assessment to be a relatively short and concise statement that clearly outlined some of the key

issues. It was certainly not the intention for the Assessment to be read as an onerous undertaking or that a full SA as directed under European Directive 2001/42/EC or the Environmental Assessments of Plans and Programmes Regulations 2004 was required.

41. However, if there is any confusion as to weight the Assessment should have and how in practice it would provide greater clarity, particularly where a scheme can demonstrated compliance with criteria a) – e), then the Council would not object to this requirement being removed from Policy ENV10. An alternative could be to refer to it as a ‘statement’ and clarify its intended purpose and role in the reasoned justification.

**x) *Has the effect on viability and delivery of Policy ENV11 been assessed? Should the policy refer to viability as well as practicability in relation to exceptions to meeting the standard?***

42. Policy ENV11 refers to the requirement that all major non-residential development will achieve BREEM ‘Very Good’ standard. The context to this requirement is that when considered at an early design stage, the costs of compliance with BREEAM ‘Very Good’ is negligible (less than 1% increase in base build costs) and therefore within any reasonable margin of error for a strategic viability study.

43. The requirements for BREEAM ‘Very Good’ are significantly less onerous than other BREEAM standards. The table below refers to the cost uplift for different non-residential development types in the UK for the different BREEAM standards.

Table 1: Cost uplift for different non-residential types

Building	Capital cost uplift (%) to achieve BREEAM		
	Very Good	Excellent	Outstanding
Distribution Warehouse	0.04	0.4	4.8
Supermarket	0.2	1.4	10.1
Secondary School	0.2	0.7	5.8
Office	0.2	0.8	9.8
Mixed-use	0.1	1.6	5.0

Source: Target Zero 2011 [https://www.steelconstruction.info/Target\\_Zero](https://www.steelconstruction.info/Target_Zero)

44. Given the small scale of the cost implications it is unlikely that this requirement will be a significant viability consideration. However, the non-residential appraisals have an allowance of 2% above the base build costs as an allowance for this requirement (see the cost under “Water efficiency” in the appraisals in Annex 6 of the 2016 report in SD09). Given the likely minimal scale of the impact and the inclusion in the viability testing, there has been no policy reference to viability exceptions.

45. The Council are content with the Policy to include the word ‘viability’, although it believes the position on overall flexibility regarding viability is already reflected under Policy IMP1 and IMP2 which would cover Policy ENV11 as it is a ‘policy requirement’.

***xi) Has the effect of Local Plan policies on air quality been fully assessed? Does Policy ENV12 provide an effective way to promote the shift toward low emission transport?***

46. Local air quality management (LAQM) requires every district and unitary authority to annually review and assess air quality in their area. (Part IV of the Environment Act (1995), the Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2007). The 2017 Air Quality Annual Status Report (ASR) for Ashford

Borough confirms that air quality within Ashford continues to meet the relevant air quality objectives, and is of a generally good quality (Ashford LAQM Annual Status Report 2017, GBD22). In particular Ashford, unlike other local authorities in Kent, has no Air Quality Management Areas (AQMAs). AQMAs are declared when there is an exceedance or likely exceedance of an air quality objective.

47. The main source of air pollution in Ashford borough is road traffic emissions from major roads, notably the M20, A20, A28 and A292. Other pollution sources, including commercial, industrial and domestic sources, also make a contribution to background pollution concentrations. Pollutant concentrations within the borough are all below the national air quality objectives and the latest monitoring data show levels are decreasing slightly (Ashford LQMA ASR 2017 – GBD22). Further monitoring and screening reports can be found on Ashford Borough Council's dedicated Air Quality webpage ([www.ashford.gov.uk/air-quality](http://www.ashford.gov.uk/air-quality)). The Council is a member of the Kent and Medway Air Quality Partnership, and historic monitoring and screening reports can be accessed from its website at [www.kentair.org.uk](http://www.kentair.org.uk).

48. Assessment of the effect of the policies of the Local Plan on air quality falls within the remit of the SA (SD02). Air quality data is presented in the SA Scoping Report (Section 2.14.17 – 2.14.2.24, pages 59-60 Appendix 1 of main report). SA Objectives are derived from the Scoping Report data and a Draft SA Framework is then produced to assess the Plan against these Objectives. The Framework is used to develop a site assessment pro-forma to assess sites which are proposed in the draft Local Plan and the reasonable alternatives.

49. Consultation on the draft Ashford SA scoping report and SA Framework was carried out with the statutory consultees in July 2013, and again in July 2014, following further work on the Framework and site assessment pro-forma table. Final minor changes to the assessment forms (see paragraph 2.1.11 of the main SA report, page 12) to reflect the lack of evidence data were made in advance of assessment work (Annex 6 of the Scoping Report). These included question 8.4 of the final draft site assessment 'Is the site located in an Air Quality Management Area?' which was deleted as there are no AQMAs in the Borough,

and therefore such a sustainability indicator would not provide differentiation between sites.

50. The Local Plan recognises that air quality is a cross-cutting issue. This is implicit throughout the Plan as demonstrated through specifically-directed policymaking, but the Council recognises that this could be made more explicit in supporting text. Air Quality is considered against Sustainable Travel in the SA Scoping Report and the SA Report itself. The Council also recognises that air quality has particular potential to affect the biodiversity of protected and important habitats and the health and wellbeing outcomes of the Plan. As a result the effect of Local Plan strategic and topic policies on air quality were assessed principally in relation to transport (for example please see paragraph 3.8.23 of the SA Main Report), but also against the objectives of protecting and enhancing areas of biodiversity importance and of improving the health and quality of life for those living and working in the borough (please see paragraph 5.5.21 of the SA Main Report and, for example, the assessment of Policies TRA1 and TRA9).

51. The effect of Local Plan site allocations/policies on air quality was assessed through the SA objectives on biodiversity, health and wellbeing and sustainable travel. As noted above, earlier SA work included a question on whether the site fell within an AQMA, but this was dropped as it did not provide differentiation between sites.

52. The Local Plan's Monitoring Framework includes an indicator for the monitoring of air quality over the Plan period.

53. With regard to the effect of Local Plan policies on air quality as they affect European Sites, the Council refers the Inspectors to the letter from Natural England (ED09) which confirms that Natural England is satisfied that, given the rural location of the Wye and Crundale Downs Special Area of Conservation (SAC), site and the nature of the roads in close proximity to the SAC (being narrow country lanes), there are unlikely to be significant increases in traffic flow or implications for the SAC from air quality as a result of the Local Plan and a likely significant effect can be ruled out. In the case of the Dungeness, Romney

Marsh and Rye Bay Ramsar Site, Natural England considers that there is sufficient policy protection in place at the Local Plan level to concur with the findings of the Habitats Regulations Assessment at this stage that there are unlikely to be significant effects to the Ramsar Site including ecological and air quality impacts based upon the best available evidence.

**Does Policy ENV12 provide an effective way to promote the shift toward low emission transport?**

54. Given that the majority of emissions contributing to air pollution come from motorised traffic, Policy ENV12 promotes modal shift, involving a range of potential measures to avoid or reduce emissions. This, read in conjunction with Policies TRA4-8 of this Local Plan, and in conjunction with site allocations that are accessible to journeys by public transport, walking or cycling, show the Council's commitment to lowering emissions while allowing for sustainable growth. This is demonstrated in particular in the Plan's spatial strategy with growth concentrated at Ashford Urban Area (Policy SP2; Housing Topic Paper, SD08) which serves to minimise the need for journeys by private vehicle. The Council is currently working to enhance the effectiveness of Policy ENV12 with partners in the highways, bus and rail sectors to bring forward and promote greener travel initiatives, including electric vehicle charging points, green travel programmes, lower emission (Euro 6 standard) buses, and the electrification of the Ashford-Hastings rail line. The delivery mechanisms of supporting schemes, however, fall outside the remit of the Local Plan and the planning system.
55. The policy as written also recognises that developments will vary in their potential for impact on air quality, and therefore offers a flexible case-by-case approach requiring Air Quality Assessments proportionate to the development's potential for impact (PPG Paragraph: 007 Reference ID: 32-007-20140306).

***xii) Do policies ENV13-ENV15 include a positive strategy for the conservation and enjoyment of the historic environment in accordance with paragraph 126 of the NPPF?***

56. Policies ENV13-15 address three linked yet distinct components of the local historic environment. Ashford borough is rich in a diverse range of heritage assets, and Policy ENV13 establishes a firm base for the Ashford Heritage Strategy (NBD03) which provides substantial guidance and a positive strategy for their conservation and enjoyment, reflecting the principles outlined in Paragraph 126 of the NPPF.

57. The Council's recently-adopted Heritage Strategy describes the rich history of Ashford Borough and its numerous and wide range of heritage assets. The Strategy responds to, and is compliant with, the requirements for a 'positive strategy for the conservation and enjoyment of the historic environment' as required by the NPPF. It sets out how the historic environment can play an important role in delivering regeneration in the Borough, particularly in supporting the objective of the Local Plan for the regeneration of Ashford Town Centre, the identification of heritage 'at risk' in the borough, the creation of attractive places and the role of heritage in growing the tourism offer of the Borough. Having regard to the Government's localism agenda, the Strategy also promotes an agenda of further understanding and engagement with the historic environment by communities, including the preparation of supplementary planning guidance to provide guidance for community groups who wish to prepare Local Lists.

58. Policies ENV14 and 15 focus on distinct aspects of the historic environment, identified alongside the Heritage Strategy as of particular importance to the fulfilment of Paragraph 126. Policy ENV14 recognises the significance and diversity of the borough's 43 Conservation Areas, and the need to manage living historic environments. It identifies that Conservation Areas (as all built environments) are organic living places and that change is inevitable, but commits to a continuing programme of work to update local Conservation Area Appraisals and Management Plans, with local involvement, to be able to better enable conservation and enjoyment of place (NPPF paragraph 127).

59. Policy ENV15 recognises the significant potential for sites in the borough to yield as yet unknown heritage finds, as well as highlighting the importance for maintaining the integrity of Scheduled Monuments. In the recent past, regionally-significant archaeological finds have been identified and catalogued as a result of development (e.g. Brisley Farm, south west of Ashford town). This policy, supported by a dedicated chapter in the supporting Heritage Strategy, acknowledges that further significant finds in the borough are likely (especially in those areas identified as areas of archaeological potential) and highlights the importance of maintaining and documenting the integrity of assets in situ (paragraph 128), while planning for the likelihood of unidentified heritage assets (NPPF paragraph 169).

***xiii) Is Policy ENV13 consistent with statutory requirements for heritage assets and paragraphs 126-140 of the NPPF, particularly in relation to the consideration of substantial and less than substantial harm and public benefits? Is the policy sufficiently clear as to what heritage assets it seeks to address, particularly in light of policies ENV14 and ENV15?***

60. It is sufficiently clear that Policy ENV13 covers all heritage assets in the borough, and frames the approach to Conservation Areas in Policy ENV14 and Archaeology in Policy ENV15. This is sufficiently clear in the policy's wording, in that it addresses "heritage assets", for which the NPPF's definition is provided in the Plan's paragraph 5.396 for clarity. The policy also applies to Conservation Areas and to Archaeology, although these categories require the amplified policy guidance in Policies ENV14 and 15. Furthermore, Policy ENV13 provides the impetus and framework for the adopted Heritage Strategy (NBD03) which, as per NPPF (paragraph 126) assesses the 'significance' of heritage assets. The Heritage Strategy follows the Historic England methodological approach, assessing the heritage of the borough in terms of its evidential, historical, aesthetic and communal value significance.

61. The Council's substantial background work is a useful resource for applicants to be able to produce, as required by Policy ENV13, a site-specific consideration of

the individual characteristics of a site and its spatial and contextual relationship to heritage assets, accepting that the sensitivity of individual heritage assets to particular development proposals will vary.

62. Policy ENV13 is consistent with NPPF paragraphs 133 and 134 in that it states clearly that planning consent will be refused for harmful development unless substantial public benefit can be shown to outweigh this harm, while more sensitive developments in the public interest could be supported subject to a more detailed assessment. An appropriate site-based assessment is required in the policy, which would address those exception outlined in national policy which need not be repeated.

***xiv) To be consistent with legal and national policy requirements, should all references in Policy ENV14 to ‘character and appearance’ be amended to ‘character or appearance’? Should the policy also refer to the ‘setting’ of a conservation area? In criterion e) what is the meaning of an ‘appropriate’ use and how would it be assessed? Is the last paragraph expressed sufficiently clearly to be effective? What is meant by ‘inappropriate’ demolition, alteration or extension and how would it be assessed? For effectiveness, should the issue of views form part of the main assessment criteria?***

63. The ‘character’ and ‘appearance’ of a conservation area are linked but distinctive aspects of an area’s identity, the parameters of which are outlined in PPG Reference ID: 18a-003-20140306. A Conservation Area, as defined under PPG (Paragraph: 023 Reference ID: 18a-023-20140306), “is an area which has been designated because of its special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.” This signals the government’s intent that both should be taken into account in any consideration of impact on the area, while in other instances the two are taken as inherently interlinked (e.g. PPG ID: 18a-057-20140306). Historic England, the government body responsible for the historic environment, has produced guidance on “Conservation Area Designation, Appraisal and Management” (February 2016), which references ‘character and appearance’ throughout.

64. Furthermore, neighbouring authorities have adopted Local Plans over the last year (Maidstone, Swale and Canterbury) referencing 'character and appearance' of cultural heritage. Most notably several of Canterbury's policies on the historic environment require the preservation and enhancement of the character and appearance of the historic environment (including Conservation Areas), and were deemed sound by the Inspector.

65. With regard to consideration of 'setting' of the Conservation Area, the extent of which would differ depending on the character and appearance of the area and its sensitivity, it would be useful for an additional reference to be added to the policy text. Propose amendments as follows: *"Development or redevelopment within Conservation Areas will be permitted provided such proposals preserve and enhance the character and appearance of the area and its setting."*

66. The final sentence of the policy could be articulated more clearly as follows, *"Proposals for inappropriate demolition, alteration or extension of buildings in or in the setting of Conservation Areas which would compromise the integrity, character, appearance, setting or which could prejudice important views into or out of a Conservation Area, will be resisted where such proposals would be detrimental to their character or setting."* It is not considered that this sentence would sit appropriately within the policy's list of criteria.

Criterion e) could be expanded to read, *"the use should be appropriate to and compatible with the character, appearance and historic function of the area"*.

67. The issue of 'inappropriate' demolition, alteration or extension would be assessed in accordance with the parameters of PPG ID: 18a-003-20140306, so that historic assets/environments are conserved and enhanced proportionate to their significance. Proposals affecting Conservation Areas would additionally be considered in the context of the relevant area's Appraisal and Management Plan (as available) and in the context of the adopted Ashford Heritage Strategy. This would be supplemented by a statement/report to satisfy the requirements of Policy ENV13.

**xv) Is Policy ENV15 consistent with Policy ENV13 and paragraphs 131 – 134 of the NPPF in terms of its approach to the consideration of harm to designated heritage assets? Is the policy also consistent with the PPG (Reference ID: 18a-040-20140306) in terms of assessment? Should the process of initial assessment, followed by desk based survey and then a field evaluation only when necessary be more clearly set out?**

68. NPPF (paragraphs 131-134) and guidance state that great weight should be given to the conservation of heritage assets, with the more important assets given greater weight. It acknowledges that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting, and advises that consent should be refused to schemes involving substantial harm to, or loss of, these save for the delivery of public benefits that outweigh the harm or loss.

69. Policy ENV13 reflects the position of national policy and guidance for the wide and diverse heritage assets in the borough, while Policy ENV15 focuses on an important subset of these. The Ashford Heritage Strategy (NDB03) categorises Ashford's diverse offer into eight broad areas – Prehistory and Archaeology; Farming and Farmsteads; Routeways; Historic Houses and Gardens; Ecclesiastical Heritage; Industry and Commerce; Invasion and Defence; and The Railway. In its assessment of significance of the borough's archaeological assets – conducted as per Historic England's classificatory framework - it concludes that these are considerable, with assets that are good and representative examples of an important class of monument and, in many cases, assets that are rare in Kent. In general, the borough's archaeology is under-researched, and therefore the historical value (as opposed to its evidential, aesthetic or communal value) is uncertain. What has been found, particularly in recent years, has greatly informed debates around the layout and function of ancient settlement, but there is potential for a great amount of unknown archaeology in this large landmass borough.

70. Archaeological heritage assets are therefore somewhat distinct from other heritage assets since they are not often the “buildings or areas” outlined in Policy ENV13, but there is no incompatibility between these in their approach to consideration of harm.

71. While highlighting the particular attention archaeological assets require, Policy ENV15 consistent with the PPG (ID: 18a-040-20140306) in terms of assessment followed by desk based survey and then a field evaluation only when necessary, reflects the guidance for non-designated assets. The process for initial assessment is adequately summarised in the policy as written.