

Thanet District Council

Matter Statement

**Matter 1 - Compliance with the Act and Regulations, the
Habitats Regulations and Strategic Flood Risk
Assessment**



Issue 1 – Duty to Cooperate

Q1. What strategic, cross-border matters have arisen through the preparation of the Plan and what cooperation took place to resolve them? Has the cooperation between neighbouring authorities been constructive and proactive?

The strategic cross-border issues that have arisen through the preparation of the draft Plan are set out in the Duty to Cooperate Statement (CD7.3). These include:

- Definition of the housing market area;
- Traffic impacts from development across East Kent, and on the strategic route network, in particular;
- Potential impact of retail growth in Thanet;
- Future of Manston Airport; and
- Employment land provision across East Kent.

In all cases, the Council considers that the cooperation has been constructive and the Council has proactively sought to come to an agreement with neighbouring Councils on matters of concern.

Q2. What specific actions were identified as a result of dialogue with neighbouring authorities? What were the outcomes and how did they shape the preparation of the Plan?

A number of specific actions were identified as a result of dialogue with neighbouring authorities:

1. An East Kent duty to cooperate statement regarding housing land supply. It is now the intention to agree individual statements where appropriate;
2. TDC to share relevant information from the EDIT report (CD2.2) before publication;
3. In relation to Manston Airport, the policy position set out in the draft Local Plan has been amended to recognise the effective primacy of the DCO process; and
4. A commitment from TDC to update neighbouring authorities with any new information, particularly in relation to transport modelling (Amey reports CD6.7 and CD6.8) and the Retail Update report 2018 (CD3.4). This work has now been shared with neighbouring authorities.

No fundamental changes to the draft Plan were necessitated as a result of these actions.

Q3. Have any strategic, cross-border matters arisen through the preparation of the Plan which the draft policies do not seek to address at this stage? If so, what are the reasons for taking this approach?

The strategic, cross-boundary matters raised by neighbouring authorities are substantially addressed in the policies. In relation to Manston Airport, there is a clear statement (rather than a policy) in the draft Plan about the DCO process and how the Council will respond to the outcome of that process.

Q4. Paragraphs 9.6-9.7 of the Draft Thanet Local Plan Duty to Cooperate Statement confirm that discussions have been held with Dover District Council regarding the extent of the

housing market area referred to in the Council’s Strategic Housing Market Assessment (‘SHMA’) but that no final agreement has yet been reached. What is the current status regarding ongoing discussions with Dover District Council on this issue? What were the outcomes of dialogue with other Kent authorities on the approach to housing market areas?

There is not agreement on a definitive housing market area. In fact, Thanet, Dover and Canterbury all identify different housing market areas, and this is primarily a function of East Kent geography and other factors.

The advice that the Council has received from GL Hearn on this matter is quite clear (see also Matter Statement 2). However, the East Kent Councils are committed to directly meeting their own housing requirements, so there is no policy implication or unmet housing need arising from the identification of different housing market areas. The Council’s commitment to meeting its own housing needs is recognised in the comments from Canterbury City Council and Dover District Council at Reg 19 stage.

Q5. How has the effect of additional growth on the highways network across Kent been considered during the preparation of the Plan? What cooperation has taken place with neighbouring authorities and Kent County Council to consider these impacts? Has this led to any specific actions or policy outcomes?

The effect of the proposed level of growth on the highway network was the subject of two specific reports undertaken by Amey, KCC’s transport consultants. This was undertaken to a methodology agreed with Highways England, and concluded that the impact the proposed Local Plan development on the strategic route network would be “negligible”. A second report addressed impact on the A28 towards Canterbury. That concluded that the traffic associated with the proposed Local Plan would represent a very small proportion of the total traffic flows on the A28. No additional actions or policy changes have been necessitated by this work.

Highways England, in representations, has raised concerns about the potential PM peak. However, HE agreed the methodology for the SRN/A28 assessment work, and KCC and TDC are of the shared view that the PM peak is very likely to be more diffuse and shallower than the AM peak. It is therefore very unlikely that the PM peak represents a significant issue for the wider route network.

Q6. How were issues surrounding economic growth, employment land requirements and retail capacity considered with neighbouring authorities? What actions were identified as necessary, and what were the outcomes?

Thanet, Canterbury and Dover all currently have surpluses of employment land over requirement, and this was discussed with the neighbouring authorities. It is recognised that employment sites tend to provide supply over more than one Plan period. In addition, TDC has reviewed its employment land supply (see CD2.2), and as part of this Local Plan process, has released some 30ha of older, less suitable employment land for housing development. Neither Council raised issues on this matter at Reg 19 stage.

In relation to retail capacity, neighbouring Councils were involved in the early stages of the Retail Study carried out in 2013. The policy choice for TDC was whether to adopt a “market share” approach to retail growth, or seek to achieve “higher than market share”. TDC has chosen to adopt a “market share” position, and this approach was not opposed by the other east Kent Councils, who were briefed about the position at a meeting in December 2013.

Canterbury and Dover have since then both raised concerns about the level of retail provision at Westwood, and the potential impact on Dover’s and Canterbury’s retail function.

TDC has discussed the position with CCC and DDC and reiterated the council’s position that it is only seeking to maintain “market share”, not increase the level of market share. The risk of impacts on centres in Canterbury and Dover is considered to be minimal.

TDC have updated the retail need assessment to reflect new post-Brexit retail expenditure forecasts, which projects a reduction in future floorspace demand from previous projections.

TDC have shared the revised retail figures with DDC and CCC (January 2018), and neither Council raised objections to the retail position at Reg 19 stage.

This is also set out in the Council’s Duty to Cooperate Statement (Core Document CD7.3).

Q7. Has the Duty to Cooperate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to advice contained in the National Planning Policy Framework (the ‘Framework’) and the National Planning Practice Guidance (the ‘PPG’)?

In the Council’s view, the duty has been met through its ongoing engagement activity with the relevant bodies on key issues, actively seeking to resolve those issues wherever possible.

Issue 2 – Public Consultation

Q1. Has public consultation been carried out in accordance with the Council’s Statement of Community Involvement, the Framework, the PPG and the requirements of the 2004 Act and 2012 Regulations?

Q2. Were adequate opportunities made available for participants to access and make comments on the Plan, and other relevant documents, in different locations?

Q3. Were adequate opportunities made available for participants to comment on the Plan in paper, and electronic form?

Q4. Were representations adequately taken into account? Where is this set out?

The public consultation carried out for the draft Local Plan has been carried out in accordance with the Council’s Statement of Community Involvement, the Framework and the PPG, and the requirements of the 2004 Act and 2012 Regulations.

At the different stages of Plan preparation, the Council's Strategic Planning Team has been given considerable support by the Council's Communications Team. A variety of opportunities have been provided to comment on the draft Plan, and comments on the draft Plan have been properly considered in the light of evidence and Government guidance.

This is set out in considerable detail in the Council's Consultation Statement (Core Document CD7.10).

Issue 3 – Local Development Scheme ('LDS')

Q1. Has the Plan been prepared in accordance with the LDS?

The Council's Local Development Scheme was revised in 2018 to reflect the changed position, following the intervention of the Secretary of State. This indicated Reg 19 Publication in August 2018 and Reg 22 Submission in October 2018. These programmed dates were met by the Council.

Q2. The Plan period runs from 2011 to 2031. Is this consistent with paragraph 157 of the Framework, which states that Local Plans should be drawn up over an appropriate timescale, preferably a 15-year time horizon?

It is recognised that ideally, the draft Local Plan would have a longer Plan period, although it is noted that the NPPF (para 157) refers to this as a preferred timescale, not a required one.

However, the Inspectors will be aware that the SoS has intervened in the Council's Local Plan process, and that intervention remains "live". The priority therefore is to get in place a Plan that addresses the current Objectively Assessed Need, and to provide broader up-to-date policy coverage for the District. The Council therefore considers that it has taken the most reasonable approach under the circumstances, with a Plan that provides 10-year coverage, with the opportunity for an early review (as directed by the SoS).

Issue 4 – Sustainability Appraisal

Q1. Have the likely environmental, social and economic effects of the Plan been adequately assessed in the Sustainability Appraisal – Environmental Report ('SA')?

The Sustainability Appraisal has tested all policies and reasonable alternatives against the 24 sustainability objectives assessing the likely environmental, social and economic effects. The sustainability objectives and decision making criteria can be found on page 2 and 3 of Sustainability Appraisal - Environmental Report August 2018.

Q2. Does the SA test the Plan against all reasonable alternatives, such as different options for the scale and distribution of growth? Where is this set out?

Yes, the environmental report generally refers to "options" rather than the term "reasonable alternatives". Appendix G details the different strategic options that were considered. These were

derived from the interim sustainability appraisal. It is proposed that the interim SA be a core document for the purposes of the Examination (CD 7.4.2)

Scale and distribution of housing were tested at page G3 and G4 (SP11 and Policies SP13 to SP17) of Appendix G and employment growth and distribution options were tested at page G1 (Policies SP02 and SP03) of Appendix G.

Options were later refined and the resultant policies were tested against a no policy option for robustness in Appendix E of the Sustainability Appraisal Environmental Report August 2018.

Q3. Appendix G1 of the SA ('Justification of Preferred Options – Updated with further iterations of Policy') states that Option 9k (a new settlement) "...would be unsustainable for the same reasons as freestanding countryside sites". Freestanding countryside sites were considered unsustainable due to their access to services, facilities and public transport connections. How does this correlate with paragraph 5.4 of the SA, which states that "...sustainable implementation of a new settlement option could be achieved."? Has the SA considered reasonable alternatives on a consistent basis?

Option 9K was assessed in the interim Sustainability Appraisal (CD7.4.2) along with other options; sites adjoining the urban area, sites adjoining the villages, freestanding countryside sites and sites in the green wedge. The principal of a new settlement scored badly compared to the more sustainable options of allocating sites adjoining the urban area and the villages.

In 2016 the housing requirement for Thanet rose to 15,660 and then to 17,140 dwellings. Reflecting this and as much of the urban and village edge had already been allocated the sustainability appraisal then had to look again at reasonable alternatives to delivering the higher housing number.

The option of a new settlement was revisited as applying robust mitigation measures could have an impact on the original overall assessment. Work was carried out in the New Settlement Mitigation Study looking at ways that a new settlement option could be made sustainable and this is reported in Appendix A of the Sustainability Appraisal - Environmental Report August 2018.

Applying robust mitigation to the options of sites in the green wedge and freestanding countryside sites would not improve the original assessment outcomes or indeed be possible. The option of sites in the green wedge scored badly as the aim of the green wedge is the separation of the towns. The in principle objection of this option cannot be overcome by mitigation as the loss of settlement separation is absolute. Robust mitigation measures cannot be applied to freestanding countryside sites because given their size and dispersed nature mitigation such as access to services, facilities and public transport connections could not be achieved.

Furthermore, the options of freestanding countryside sites and in the green wedges are contrary to the Core Principles within the NPPF therefore it is considered that only the reasonable alternative to increasing the amount of housing on the urban and village edges is a new settlement. With the implementation of robust mitigation considered this scored better when revisited in 2016. This was reported in paragraph 5.4 of the SA.

Ultimately the Council were left with two options for delivering the housing requirement. Further housing at the urban and village edge or a designation of a new settlement. These two options

were assessed in document CD7.4.2, and presented to Members and incorporated into the Sustainability Appraisal - Environmental Report August 2018.

Moreover, and for consistency, an additional site was submitted at the preferred options revisions stage of consultation that had the potential to be considered as a new settlement. The Council subjected this further submitted site to assessment for its suitability as a freestanding new settlement.

This demonstrates the evolving nature of the sustainability appraisal with various iterations of policy and decision making.

Q4. How has the provision of a new settlement, as an alternative to the proposed growth strategy, been considered as part of the SA process?

As outlined in the answer to Q3 the option of a new settlement was first assessed as part of the housing distribution options in 2013. This option 9k compared with other options such as locating development at the urban edge and within urban and village confines scored quite poorly.

In 2016 the housing requirement rose significantly meaning that the housing distribution options needed to be revisited given that much of the urban edge was already allocated. A number of sites had also been submitted that could potentially form a new settlement.

Work assessing whether a new settlement could become sustainable and detailing what mitigation would be required was commissioned. The report also looked at a number of sites that could potentially form a new settlement, one of which was on brownfield land so scored better against the 24 sustainability appraisal criteria.

The selected new settlement is assessed in the sustainability appraisal as policy SP05 in Appendix G and the new settlement policy (including boosted mitigation) is assessed in Appendix E. This appears as strikeout in the Environmental Report as the policy was not carried forward into the submitted Thanet Local Plan.

Findings of the New Settlement Mitigation Study are reported within Appendix A of the Sustainability Appraisal - Environmental report August 2018

Q5. In response to the Inspectors' Initial Questions the Council confirmed that the options of locating housing adjoining the urban area and adjoining villages was considered in Appendix G of the SA. However, Appendix G is taken from a report to Cabinet, dated 11 December 2014, and appears to be based on a different housing requirement to the one found in the Local Plan? Please can the Council point to where an assessment of reasonable alternatives has been carried out having regard to the housing requirement in draft Policy SP11?

The initial sustainability appraisal assessment looked at migration trend versus zero migration (essentially testing whether to meet the housing requirement or not). This was reported in appendix G and suggested that meeting the identified need was the most sustainable option as that would provide the housing needed and would be beneficial for the economy. The assessment findings remain the same whether the requirement is 12000 homes or 17140 homes. The SA concluded

that there may be impacts from the level of development but this was assessed using the actual locations and policies themselves. The 17,140 houses was assessed under the options for SP05 and the increased urban edge options SP14, 15, 16 and 17.

Core document 7.4.1 highlights these assessments which are incorporated into the Environmental Report.

The Council considers that there is no reasonable alternative to meeting the objectively assessed housing requirement.

Q6. Does the assessment of policies in the SA take into account the findings of the People Over Wind & Sweetman vs. Coillte Teoranta judgement? In particular, whether policies are likely to have an adverse effect on site integrity?

Not explicitly within the Sustainability Appraisal document. The Habitats Regulations Assessment has assessed policies in the light of this ruling and the sustainability appraisal cross refers to the HRA.

Natural England in their representations suggest that to accurately reflect the conclusions of the HRA the sustainability appraisal concludes that “there is no adverse effect on site integrity” rather than “there is no likely significant effect” where policies rely on mitigation to avoid impacts on European sites.

It is also proposed to reconcile references to HRA being not applicable and no likely significant effect as per Natural England’s comments. The SA will be updated to reflect these matters.

Q7. What is the justification for concluding that proposals for residential development and solar parks on greenfield sites will have a positive effect on the objective of conserving and enhancing biodiversity?

The assessment of residential and solar park development is predicated by the proposed spatial development strategy set out in the submitted Thanet Local Plan. This spatial development strategy locates development away from designated green wedges, that retain both landscape and biodiversity value, towards settlement expansion sites that are predominantly agricultural grassland.

The assessment of development on these sites typically considered that existing green wedges would be effectively conserved by this spatial development strategy and that existing greenfield sites identified for a location in the submitted Thanet Local Plan could have an enhanced biodiversity value as a result of effective masterplanning and implementation of development management policies.

These factors were therefore deemed to meet the conservation and enhancement aspects of Objective 20 of the Sustainability Appraisal.

Q8. How has the SA considered infrastructure proposed in the Infrastructure Delivery Plan ('IDP'), which at this stage is only in draft form and may be subject to change?

The key infrastructure identified in the draft IDP is also largely specified in the draft Local Plan under either infrastructure-specific policies (such as SP47); in relation to specific sites (such as SP15); or in the general housing Policy SP12. This includes road network improvements and new roads; new schools and medical facilities.

These policies have all been the subject of iterative Sustainability Appraisal during Local Plan preparation.

It is acknowledged that infrastructure requirements may evolve over the Plan period. However, the key elements of the IDP have been subject to SA, and the Council considers that a proportionate level of SA assessment of infrastructure requirements has been undertaken.

Issue 5 - Habitats Regulations

Sandwich Bay Special Area of Conservation ('SAC')

Q1. How have the potential impacts of recreational disturbance (arising from policies and allocations in the Plan) on the Sandwich Bay SAC been considered?

The potential effects of recreational disturbance on the interest features of Sandwich Bay SAC are considered in Section 5.2 of the Habitat Regulations Assessment (CD7.5). The assessment did not include bespoke visitor surveys (these were not requested by Natural England nor considered necessary to accurately assess the likely effects of the TDC Local Plan on the SAC) but relied on existing visitor survey data (e.g. from Dover District Council) and other contextual information regarding the SAC condition and the known threats and pressures from recreational disturbance.

In summary, Natural England indicates in its Site Improvement Plan (SIP) that it has concerns "around compaction, trampling, erosion, and enrichment of sand dunes, particularly where vehicles have access to the sea front"; however, it is understood that this principally relates to a relatively localised area adjacent to Prince's Drive, around an existing area used for parking, rather than to the SAC as a whole (public access to the dune systems is limited by the number of public footpaths and the presence of private golf clubs). The majority of the units for the Sandwich Bay to Hacklinge Marshes SSSI (which underpins the SAC designation) are in 'favourable' condition (including those on the seafront), and visitor pressure is not identified as a factor currently affecting those units that are in 'unfavourable recovering' condition.

Furthermore, the SIP notes that 'A detailed study is required to assess the impact of vehicle access to the sea front on the Sandwich dunes and recommend management measures, such as zoning, to reduce impact on the sand dune communities', suggesting that location-specific management interventions are necessary rather than large-scale management of visitor numbers. Collectively, therefore, there is nothing to suggest that the overall number of visitors to the SAC is a critical factor affecting the favourable conservation status of the dune habitats, or that current or future visitor numbers cannot be managed with established site-based management interventions in conjunction with landowners.

It should also be noted that the dune systems are not particularly accessible to visitors to Thanet, particularly in relation to other parts of the Thanet coast and the northern areas of the SAC around Pegwell Bay and Ramsgate; for example, from the junction of the A255 and A229 on the western edge of Ramsgate the parking at Prince's Drive is approximately 14km by road (over 30 minutes).

Overall, therefore, the HRA concluded that the growth accommodated by the Thanet plan would not have an adverse effect on the integrity of the SAC through the pathway of recreational pressure and urbanisation, alone or in combination. NE concurred with this assessment in its draft Local Plan consultation response to TDC.

Q2. What specific measures does the Plan include to ensure that its policies are not likely to give rise to adverse effects, either alone or in-combination with other plans and projects?

The Local Plan does not include specific measures because no adverse effects will occur (see Question 1, above, in relation to recreational pressure; Questions 3 and 4, below, in relation to air quality; and Section 4.1, Table 4.3 of the HRA for other pathways). However, several policies will have effects that are likely to be incidentally beneficial to the SAC (for example SP24 (Green Infrastructure) and SP31 (Provision of Accessible Natural and Semi Natural Green Space, Parks, Gardens and Recreation Grounds) in relation to recreational pressure).

Q3. How have the potential impacts of atmospheric pollution (arising from policies and allocations in the Plan) on the Sandwich Bay SAC been considered?

The potential effects of atmospheric pollution on Sandwich Bay SAC are considered in Section 5.3 of the HRA. In summary, the HRA identified locations within and outside the TDC area where A- and B-roads are within 200m of Sandwich Bay SAC; an analysis of the SAC habitats found in those areas was then undertaken, based on data available for the SAC and the Sandwich Bay to Hacklinge Marshes SSSI. This concluded that the emissions-sensitive Qualifying Features of the SAC (dune habitats) were all over 200m from the nearest A- and B-roads, and that the integrity of the SAC would not therefore be affected by this mechanism.

Q4. How are traffic flows predicted to change as a result of the development proposed in the Plan on A or B roads within 200m of any emission-sensitive features of the SAC, both within and outside of Thanet District?

Bespoke studies to determine traffic flows have not been undertaken as none of the emission-sensitive features of Sandwich Bay SAC are thought to be present within 200m of any A and B roads (see Section 5.3 of the HRA).

In summary, there are two points regionally where A- or B-roads are within 200m of Sandwich Bay SAC: on the A299 / Harbour Approach in Ramsgate (hereafter 'Location 1'); and on the A256 between Great Stonar and Richborough Port (hereafter 'Location 2'). The habitats within 200m of Location 1 are essentially intertidal mud and sand flats, with rocky shore exposures; the habitats within 200m of Location 2 comprise the estuary of the River Stour and associated intertidal muds and saltmarshes. None of these habitats are identified as Qualifying Features for Sandwich Bay SAC in the Conservation Objectives (the Qualifying Features are all sand dune habitats), and none are considered to be particularly sensitive to atmospheric N-deposition due to the dominance of

nutrient loadings (including available-N) from river and tidal inputs.

The treatment of ‘non-qualifying’ habitats within European sites is variable; the Conservation Objectives do not make direct reference to associated habitats within an SAC (the ‘typical species’ of Qualifying Habitats are referred to), although they are generally taken into account in the appropriate assessment where they are relevant to the maintenance (etc.) of the Favourable Conservation Status of the qualifying features (e.g. ‘buffer areas’ around sensitive features).

For the avoidance of doubt, therefore, the sensitivity of the habitats within 200m of Locations 1 and 2 to nitrogen deposition is set out in Table 2.1 below, based on data from APIS. None of the habitats are sensitive to acid deposition based on APIS.

Table 2.1 Sensitivity of Sandwich Bay SAC habitats within 200m of A- and B- roads N-deposition

Location / Road	Habitats within 200m of road	Equivalent Annex I habitat*	N-deposition (kg N/ha/yr)	
			Min. CL	Current Max
1 (A299)	Intertidal sediment /rock	Mudflats and sandflats not covered by seawater at low tide	Not stated**	15.8
2 (A256)	Estuaries	Estuaries	20	15.8
2 (A256)	Saltmarsh	Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	20	15.8

CL = Critical Load

*The equivalent Annex I habitats are used to identify the appropriate critical loads for these habitats, although the habitats within 200m of Location 1 and 2 are not Qualifying Features of the SAC.

**No minimum critical load is identified for intertidal sediments, and this habitat is not considered sensitive to N-deposition.

It is evident that the minimum critical loads for N-deposition are not currently exceeded for the habitats present in the SAC within 200m of A- and B- roads. Notwithstanding this, the accepted threshold for ‘significant effects’ to be possible is an increase of >1% of the minimum critical load; in this instance, this would be approximately 0.2 kg/ha/yr (i.e. 1% of 20 kg/ha/yr).

Although it is not simple to apply ‘rule of thumb’ estimates to relationships between traffic volumes and N-deposition (as this is influenced by a number of factors), it is worth noting that the DMRB guidance regarding air quality thresholds is based on the assumption that 1,000 extra vehicles is equivalent to ~0.01 kg N/ha/yr (this is obviously a coarse figure and there are other factors that come into play such as the emissions factors used for opening year/ wind direction etc./ number of HGVs / speed etc.). Recent air quality modelling by Wood of a new link road elsewhere in the UK found that an increase of ~7,000 AADT increased N-deposition by 0.21 kg N/ha/yr at the worst receptor point (at the immediate kerbside), and that by 25m from the road the increase in N-deposition was zero.

Therefore, the HRA concludes that the Local Plan will have no adverse effect on the integrity of the Sandwich Bay SAC as (a) the emissions-sensitive Qualifying Features of the SAC are not present within 200m of any A- or B-roads; (b) the habitats that are present near the A-roads are not particularly sensitive to vehicular emissions; (c) the critical loads for the habitats that are present near the A-roads are far from being exceeded, and will not be exceeded under any reasonable scenario for traffic increases due to the Local Plan; and (d) the integrity of the Qualifying Features of the SAC will not be indirectly affected by any changes in other site habitats that may be associated with vehicular emissions. Based on this, bespoke traffic modelling was not considered

necessary to allow the effects of the Local Plan on the SAC to be accurately and robustly assessed.

Q5. Paragraph 5.2 of the Thanet Local Plan Habitats Regulations Assessment ('HRA') states that, amongst others, Policy SP26 will mitigate against the in-combination effects of new development. However, Policy SP26 refers specifically to the Thanet Coast SPA and Ramsar Site. How will Policy SP26 benefit the dune features of the SAC?

Section 5.2 is perhaps not as clear as it could be in this regard. The 'Proposed / Incorporated Mitigation' section notes that "...no bespoke mitigation measures are identified within the TDC plan for managing recreational pressure at this site...[although]...the Local Plan includes a number of policies that will help minimise additional recreational pressure on designated sites...". This is intended to differentiate between specific measures that are required to mitigate otherwise adverse effects (which are not considered necessary, as no adverse effects are anticipated from changes recreational pressure associated with the Local Plan), and those policies which may provide some incidental benefits in this regard.

In this context, Policy SP26 is not relied on to mitigate otherwise adverse effects on the dune habitats of the SAC, but is simply identified as a plan component that may have some incidental benefits for the SAC as a whole. It is recognised that SP26 and its associated Strategic Access Management and Monitoring plan (SAMM) relate specifically to the Thanet Coast SPA and Ramsar sites, although it is not unreasonable to suggest that measures implemented by the SAMM can have incidental benefits for the SAC where there is overlap between the sites, even if the SAC is not the primary target. For example, some of the foredunes within the SAC (including those vulnerable to damage alongside Prince's Drive) are also within the SPA and it is realistic to expect that SAMM-driven signage relating to the bird interest features of the SPA could also include information to help manage visitor behaviour around the dune features.

Thanet Coast and Sandwich Bay Special Protection Area ('SPA') and Ramsar Site

Q6. How have the potential impacts of recreational disturbance (arising from policies and allocations in the Plan) on the Thanet Coast and Sandwich Bay SPA and Ramsar Site been considered?

The potential effects of recreational disturbance on the interest features of the Thanet Coast and Sandwich Bay SPA and Ramsar sites are considered in Section 6.2 of the HRA, with contextual information also provided in Section 3.3.

In summary, recreational activities are thought to be having significant effects on the sites by disturbing some Qualifying Features (principally overwintering turnstone foraging and roosting along the foreshore, although golden plover utilising fields away from the coast might also be affected); without the implementation of specific mitigation measures it is likely that disturbance will increase as the population of Thanet increases, potentially resulting in adverse effects on the integrity of the sites.

Visitor surveys are often sought to determine whether public access is having a significant or significant adverse effect on a site, although in practice they rarely assist in characterising the

scale or ecological significance of any effects; rather, they typically assume that the site is being (or will be) significantly affected by visitor pressure and then provide a semi-quantitative basis for setting radii for policy interventions (such as developer contributions) which are intended to ensure that possible adverse effects do not occur or can be mitigated. In this instance the HRA did not include bespoke visitor surveys as there is a sufficient body of evidence and proxy data (see Table 3.3 of the HRA) to conclude that all allocations within Thanet will contribute to visitor pressure at these European sites (as all of Thanet is within 6km of the Thanet Coast and Sandwich Bay SPA and, as the Thanet peninsula is only around 6km from north to south and the main population centres are clustered around the coast, the vast majority of the population is within 2km). Effects on 'functional land' (areas outside a European site that may nevertheless be critical to its integrity – for example, some high-tide roost sites) were assessed through a review of various datasets collected for TDC and the HRAs of other projects locally.

The assessment recognised that the possibility of adverse effects could not be excluded without the implementation of specific mitigation measures. Adverse effects on the European sites due to recreational pressure are therefore principally prevented by three policy interventions:

Policy SP12 (requires that, inter alia, proposed developments contribute to the SAMM and SP26, and undertake an assessment of the development site's functional linkages with the SPA);

Policy SP26 (requires that all new residential development complies with the SAMM in order to mitigate against the in-combination effects of new development, with other development considered on a case-by-case basis); and

Policy SP27 (provides policy-level safeguards for land that may be functionally linked to the SPA).

Other policies will also have mitigating effects, including SP24 and SP31 (relate to the provision of greenspace by developments, which will help reduce effects). The HRA concluded that the policy-based mitigation will be sufficient to ensure that the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar sites will not be adversely affected by the implementation of the Local Plan. NE concurred with this assessment in its draft Local Plan consultation response to TDC.

Q7. How has the effect of development on functional habitats in close proximity to, and associated with the SPA, been considered?

The potential for development to affect functional habitats is considered in Section 6.2. This assessment used a range of datasets to identify known high-tide roost areas for turnstone (these are all on the coast and will be covered by the provisions of the SAMM) and areas with significant aggregations of golden plover, including:

- surveys of potential allocation sites for evidence of potentially significant aggregations of golden plover, undertaken for TDC as part of the evidence-gathering;
- reviews of surveys undertaken for the Richborough Grid Connection project; and
- Kent Ornithological Society (KOS) data.

In summary, none of the allocation sites are likely to directly affect functionally-linked land based on the available data; whilst some golden plover (for example) are likely to periodically use

allocation fields, there does not appear to be any evidence to suggest that particular allocation sites are favoured, or that potentially significant annual aggregations will be displaced. However, natural variability in the use of functional land creates a risk of potential effects that cannot be avoided by simply excluding certain areas in the allocation process, and it is possible that some allocation areas will, in the future, become valuable for the Qualifying Features.

As a result, policies SP12 and SP27 provide policy-level safeguards for land that may be functionally linked to the SPA and require that, inter alia, proposed developments undertake an assessment of the development site's functional linkages with the SPA (including land within 400m, to ensure that 'indirect' effects are accounted for). These measures are considered sufficient to ensure that the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar sites will not be adversely affected by the implementation of the Local Plan. NE concurred with this assessment in its draft Local Plan consultation response to TDC.

Q8. What specific measures does the Plan include to ensure that its policies are not likely to give rise to adverse effects, either alone or in-combination with other plans and projects?

The assessment recognised that the possibility of adverse effects could not be excluded without the implementation of specific mitigation measures. Adverse effects on the Thanet Coast and Sandwich Bay SPA and Ramsar sites are therefore principally prevented by three policy interventions:

Policy SP12 (requires that, inter alia, proposed developments contribute to the SAMM and SP26, and undertake an assessment of the development site's functional linkages with the SPA);

Policy SP26 (requires that all new residential development complies with the SAMM in order to mitigate against the in-combination effects of new development, with other development considered on a case-by-case basis); and

Policy SP27 (provides policy-level safeguards for land that may be functionally linked to the SPA).

Other policies will also have mitigating effects, including SP24 and SP31 (relate to the provision of greenspace by developments, which will help reduce effects through recreational pressure). The HRA concluded that the policy-based mitigation will be sufficient to ensure that the integrity of the Thanet Coast and Sandwich Bay SPA and Ramsar sites will not be adversely affected by the implementation of the Local Plan. NE concurred with this assessment in its draft Local Plan consultation response to TDC.

Q9. What is the justification for requiring proposals of 10 dwellings or more to include an assessment of the site's functionality as a roosting or feeding resource for the SPA, regardless of location? Is Policy SP12 necessary for all development proposals, including the re-use of previously developed land in urban areas?

None of the allocation sites are likely to directly affect functionally-linked land, based on the available data. However, natural variability in the use of functional land creates a risk of potential effects that cannot be avoided by simply excluding certain areas in the allocation process, and it is possible that some development sites will, in the future, become important for the Qualifying Features. This is principally a risk associated with golden plover in agricultural areas, but there are

many examples nationally of over- wintering birds (including turnstone) using ex-industrial or urban brownfield sites for roosting at high tide. In the vast majority of cases, particularly in urban areas, the assessment will be a very simple undertaking.

Q10. What is the justification for requiring the assessment (referred to in Question 8 above) to include areas within 400m of the site's boundary?

400m is a precautionary buffer distance that is commonly used when considering the potential for developments to affect biodiversity features (particularly designated sites) through indirect urbanisation or disturbance effects; for example, 400m is used in policy as the distance from the Thames Basin Heaths SPA within which development should not occur at all due to the risk of significant effects.

Most of the areas within 400m of a development site in Thanet will not be part of an SPA, and functional land (particularly agricultural land) is more ubiquitous than SPA-specific habitats and so pressure on, say, an individual field would not typically carry the same degree of risk to integrity as pressure on an equivalent area of an SPA. However, 400m is considered a suitably precautionary buffer to ensure that the risks of effects on 'unknown' functional land (i.e. land that cannot be identified prior to the adoption of the Local Plan) can be reliably identified and, if necessary, mitigated. NE concurred with this assessment in its draft Local Plan consultation response to TDC.

Q11. What is the justification for requiring development proposals on land at Manston Court/Haine Road (Policy SP18) to include a survey of ground nesting bird habitats? How does this differ from other site allocations in the Plan?

As part of the surveys recommended by Natural England for farmland birds related to the SPA, some presence of farmland birds was recorded in close proximity to the site.

Given that the location of such birds can vary to some degree from year to year, it was considered necessary in this instance to require such survey work to inform the potential need for any on-site mitigation.

Strategic Access Management and Monitoring

Q12. Does Policy SP26 (as referred to by Policy SP12) relate to all proposals for residential development, or just proposals for residential development on allocated sites? Is this clear to decision-makers, developers and local communities?

Policy SP26 states that "all proposals for new residential development" will be required to comply with the SAMM.

Q13. What is the justification for requiring all proposals for residential development to contribute towards the Strategic Access Management and Monitoring Plan ('SAMM'), regardless of location?

All residential developments will be within 6km of the SPA, and the vast majority will be within 3km; they are therefore well within the typical 'zone of influence' for recreational pressure reported in numerous visitor studies for coastal SPA. Whilst the behaviour of individual residents cannot be definitively predicted, it is reasonable to assume that the vast majority will visit the seafront at some point and so contribute to 'in combination' visitor pressure on the SPA / Ramsar. As it is not possible to make distinctions for individual resident behaviours it is appropriate to apply the tariffs to all residential development, regardless of location within Thanet.

Q14. What are the tariffs in Table 8 to Policy SP26 based on? Have they been considered as part of the viability evidence which supports the Plan?

The SAMM tariffs are based on undertaken for the Council in relation to Habitats Regulations mitigation, and the background is set out in the Strategic Access Management and Monitoring Plan – Main Report (April 2016)(CD5.4) and Thanet SAMM Revised Tariff 17K (April 2017)(CD5.5). This sets a sliding scale for new housing development to ensure that recreational impacts on the SPA are properly managed.

The work was considered as part of the Local Plan viability assessment, and this is set out in Thanet DC LP & CIL Viability Assessment (CD1.3).

Q15. Is Policy SP26 consistent with paragraph 204 of the Framework which states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind?

On the basis of the SAMM report, and the requirements of the Habitats Regulations, the Council considers that the approach taken in the draft Local Plan meets the requirements of para 204 of the Framework.

Q16. How will Regulation 123 of the Community Infrastructure Levy Regulations ('CIL') (2010) apply where five or more separate planning applications provide funding towards the projects referred to in Policy SP26? Will Policy SP26 be effective in mitigating the in-combination effects of additional recreational pressure arising from new development in Thanet?

It is the view of Natural England expressed to the Council, and shared by the Council, that the SAMM is not infrastructure within the conventional meaning, but is mitigation for likely significant effects identified under the Habitats Regulations, and is not subject to the CIL Regulations.

The provisions of SP26 and the SAMM will be effective in mitigating the in-combination effects of additional recreational pressure arising from new development in Thanet, and effects in combination with development in neighbouring authorities (with the complementary mitigation employed by these authorities). This is based on the available evidence from similar mitigation schemes nationally and NE's assessment of the SAMM. NE concurs with this position in its draft Local Plan consultation response to TDC.

However, it is the intention to monitor the effectiveness of the SAMM approach, and this is referred to in para 47 of the draft Plan.

Q17. Has policy SP25 taken account of Dover District Council's Thanet Coast SPA Mitigation Strategy (2012) and ongoing visitor disturbance study at Pegwell Bay and Sandwich Bay? Are there any cross-boundary implications relevant to the policy?

In drafting SP25, the Council was aware that Dover DC also has a Mitigation Strategy for the coastal areas south of the River Stour, within the Dover district boundary.

However, the cross-boundary area, from the northern edge of Pegwell Bay in Thanet to Sandwich in the south, is within the Pegwell Bay-Sandwich Bay National Nature Reserve, a 615-hectare reserve. This is addressed in para 12.2 of the draft Plan and draft Policy GI01.

The Reserve is managed by the Kent Wildlife Trust on behalf of a number of organisations, and there is a Steering Group that includes both Thanet and Dover Councils. This has been established for some years, and is the primary mechanism for managing visitor pressure and other conservation management matters, in this area.

It is therefore the Council's view that while there are shared issues and interests, there are no significant cross-boundary issues that are not addressed through the mechanism of the NNR Steering Group.

Q18. Where relevant are the policies in the Plan consistent with the avoid, mitigate and compensate hierarchy in paragraph 118 of the Framework?

In preparing a development strategy, the Council has sought to avoid allocations in close proximity to the SSSI/SPA/SAC/Ramsar Site, so as to avoid the most direct impacts. The Council has taken the view, following advice from Natural England, that development requirements in Thanet can be accommodated with an appropriate mitigation strategy (ie: the SAMM Strategy), as agreed with Natural England.

The Council considers that the coastal habitats are to all intents and purposes irreplaceable, as set out in the para 118, but has also sought to ensure that the recreational impacts arising from new development can be properly mitigated.

Issue 6 – Strategic Flood Risk Assessment ('SFRA')

Q1. Do any of the sites allocated for development in the Plan fall within Flood Zones 2 or 3? If so, are the allocations and policies consistent with paragraph 100 of the Framework which states that Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change?

The Council has identified some limited small brownfield sites in Margate old town, for residential development to aid regeneration within this area which is a Council priority. These allocations have been carried forward from the 2006 adopted Local Plan. Dreamland Amusement Park is

synonymous with Margate as a seaside resort. The Council has worked hard with partners to achieve its reopening. The site is allocated for amusement park and/or theme park use as is seen as an important component for the regeneration of Margate.

Developments in these areas will need to undertake a Flood Risk Assessment and demonstrate that the Exceptions test can be passed as set out in Policy CC01. Further guidance in the form of a site specific flood Risk Assessment Checklist is set out in paragraph 067 of NPPG. As a general rule the Council will expect development in these areas to include appropriate flood mitigation and resilience measures such as avoiding sleeping accommodation on the ground floor, no single storey residential accommodation in areas of flood risk, raising floor levels to a height recommended by the Environment Agency, designing electrical sockets and wiring at a higher level, or provide safe escape routes including access to upper floors. This is referenced in the SFRA paragraph 9.2 – Flood Risk Management through Design.

The Council therefore considers that it has applied the Framework, including paras 99 and 100, appropriately.

Q2. How has the Council taken a sequential approach to identifying sites for new development?

The Council's approach to development and flood risk is addressed in Section 4 of the SFRA Addendum, agreed with the Environment Agency, and published in January 2018.

The Council has applied the general approach of locating major new development on greenfield land away from areas at risk from flooding (Zones 2 and 3).

The main areas of flood risk are confined to the low-lying former Wantsum channel eg Wade Marsh, Minster Marshes and marshes associated with the River Stour, at the foot of the chalk slope. This is a largely rural landscape and is generally avoided for large scale development.

Q3. What is the justification for requiring development proposals within 40m of a coastline or clifftop to demonstrate that it will not expose people or property to the risks of coastal erosion and flooding, or accelerate coastal erosion?

This arose from work carried out on behalf of Thanet District Council to inform the Isle of Grain to South Foreland Shoreline Management Plan review process. The work indicated erosion rates with max and min figures for three epochs to match the structure of the SMP. The largest figure for the fastest eroding section of cliff in the 100 year term is 50 metres, but the 40 metre figure is considered a realistic maximum for the Thanet coastline.

Q4. What affect (if any) has the Environment Agency's latest modelling for the North and East Kent Coast had on the allocations and policies in the Plan?

The Council is aware of the latest modelling (which became available in November 2018) and the fact that it extends some areas at flood risk, notably in Margate Old Town; and land in the vicinity of Minster, Monkton and Sarre. The latest information does not have any significant implications for the overall Local Plan Strategy, or the location of housing in the draft Plan.

It should be noted, however, that one omission site submission (Reg 190) - Land south west of Sarre Business Park, Sarre - that was previously not affected by areas at risk to flooding is now included in that area.

Issue 7 – Public Sector Equality Duty ('PSED')

Q1. In what way does the plan seek to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

The Council has carried out an iterative process of EqIA for the draft Local Plan under the Public Sector Equality Duty. A report of the findings can be found at Core Document CD7.6.