

Thanet District Council

Matter Statement

**Matter 17: Biodiversity and Geodiversity
(Policies SP25-SP28 and GI01-GI03)**



Issue 1 – Biodiversity and Geodiversity Policies SP25-SP28 and GI01-GI03

Q1. Are Policies SP25-SP28 consistent with paragraph 113 of the Framework which states that local planning authorities should set criteria-based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged?

A factual correction needs to be made to policy SP25 to reflect the latest Conservation of Habitats and Species Regulations ~~2017-2010 (as amended)~~. In addition it is proposed to make the first sentence of the policy a separate first paragraph in its own right so as not to give the impression that mitigation is to be taken into account at the AA stage.

Thanet is in the unusual position for a local authority in that it is surrounded on three sides by international designations at the coast. This has the effect of the entire District falling within around 6km of the SPA and therefore within the zone of influence. This is explained in the SAMM (CD5.4) as the geographical area within which an impact on European site interest can be identified and where potential impacts need to be avoided or mitigation provided. It is not possible nor desirable to identify criteria within the policy as each development will have its individual implications which its design will need to address.

Policy SP25 has been written in conjunction and through negotiation with Natural England and has been substantially reworded since the preferred options stage. Any development in Thanet has the potential either in isolation or cumulatively, to have an impact on the international designations, therefore there is no need for a criteria based policy. There are specific tests set out in the Habitat Regulations Assessment.

A minor correction to policy SP26 is also proposed for clarification purposes in light of Natural England's comments.

“All proposals for new residential development will be required to comply with the Strategic Access Management and Monitoring Strategy (SAMM) in order to mitigate against the in-combination effects of new development, through the pathway of recreational pressure on the Thanet Coast SPA and Ramsar site. A financial contribution based on the current tariff in table 8 and any subsequent amendments, is required ~~in perpetuity~~ towards an **in perpetuity** Access Management Scheme. This will be collected via a S106 payment.

Developments for other uses that would increase recreational activity causing disturbance to qualifying species will be assessed on a case by case basis under the Habitat Regulations and may be required to make full or partial contributions towards the SAMM Plan if appropriate.”

Q2. Do Policies SP25-SP28 make distinctions between the hierarchy of international, national and locally designated so that protection is commensurate with their status and give appropriate weight to their importance and the contribution that they make to wider ecological networks?

The hierarchy is set out in the various policies - SP25 is for International and European wildlife sites. GI01 reflects the national designations while GI02 relates to the local designations.

Q3. Does the Plan include policies which plan for biodiversity at a landscape scale, including across local authority boundaries as required by paragraph 117 of the Framework? Does the Plan identify and map components of ecological networks, including wildlife corridors and stepping stones that connect them?

The plan provides for biodiversity at a landscape scale through policy SP28. The supporting text in paragraphs 4.53 to 4.56 sets out the Biodiversity Opportunity Areas that the Council has been working on with Kent Nature Partnership and other local authorities. The areas identified are cross boundary landscapes as they stretch into neighbouring districts of Canterbury and Dover. Also part 3) of policy SP27 seeks the creation of linkages between sites to create local and regional ecological networks.

It is the Council's intention to produce a green infrastructure strategy which will address the components of the ecological network in detail. The Policies map identifies the various components of nature and landscape designations.

A plan was included in the Preferred Option local plan, however, it was very difficult to read and was soon out of date and therefore it was not included in the submission plan.

Q4. Is it clear to decision-makers, developers and local communities how any habitat loss and/or mitigation will be determined to ensure that proposals for new development secure net gains in biodiversity?

The Government consultation on net gain has recently finished and responses are still being considered as part of this process. However, the council recognises the importance of net gains in biodiversity and to improve the effectiveness of policy SP27 it is proposed to amend the wording to include a reference to net gain and to also address a comment raised by Natural England.

Development proposals ~~will~~ **shall**, ~~where appropriate~~ **wherever possible**, be required to make a positive contribution to the conservation, enhancement and management of biodiversity and geodiversity assets **resulting in a net gain of biodiversity** through the following measures:

- i) the restoration / enhancement of existing habitats,
- ii) the creation of wildlife habitats where appropriate, by including opportunities for increasing biodiversity in the design of new development
- iii) the creation of linkages between sites to create local and regional ecological networks,
- iv) the enhancement of significant features of nature conservation value on development sites.
- v) **Mitigating against the loss of any farmland bird habitats**

Sites should be assessed for the potential presence of biodiversity assets and protected species. On sites where important biodiversity assets, including protected species and habitats including SPA functional land, or other notable species, may be

present, an ecological assessment will be required to assess the impact of the proposed development on the relevant species or habitats. Planning permission will not be granted for development if it results in significant harm to biodiversity and geodiversity assets, which cannot be adequately mitigated or as a last resort compensated for, to the satisfaction of the appropriate authority.

Q5. Does Policy SP25 reference the correct Regulations?

The council is proposing a factual correction in response to the comments raised by Kent County Council and Natural England to amend the reference to read

“Proposals likely to have a significant effect on an SPA, SAC or Ramsar site, either alone or in-combination, will be required to undergo appropriate assessment as per the Conservation of Habitats and Species Regulations **2017** ~~2010 (as amended)~~.”

Q6. Is it the wording of Policy SP27 clear as to whether the need for ecological surveys applies to all sites? Is the policy effective?

The wording of policy SP27 states that ecological surveys will be required on sites where important biodiversity assets, including protected species and habitats including SPA functional land, or other notable species, may be present. However, it would benefit from a change so as to make it a requirement that all sites should be assessed for the potential presence of biodiversity assets. At the beginning of the second para. Add the words “**Sites should be assessed for the potential presence of biodiversity assets and protected species.....**” See detailed wording set out in question 4 above.

Q7. Is the information contained in diagram 1 (Chapter 12) regarding designated sites accurate?

Diagram 1 is to be revised as the text was hidden in the diagram format. Add Thanet Coast SSSI and Thanet Coast Marine Conservation Zone. Correct Ramsar spelling.

Q8. Will Policy GI01 deliver real gains in biodiversity in the area over the plan period? Is the policy effective and consistent with national policy?

This policy aims to protect national designations in all but exceptional circumstances i.e. the need for the proposed development is compelling and overrides the national importance of the site. Paragraph 109 of the NPPF sets out that the planning system should minimise “impacts on biodiversity and providing new gains in biodiversity where possible ...” Paragraph 118 addresses when development may take place on land within or outside a Site of Special Scientific Interest.

Q9. Unlike policy GI02, policy GI01 does not contain a specific reference to new developments including measures to enhance and improve connectivity to designated sites. Why is there a different approach to Nationally and Locally Designated Sites in this regard? Is the policy justified?

The Council has agreed with Natural England to add to the end of policy GI01:

Development which would materially harm either directly, indirectly or cumulatively, or detract from the scientific or nature conservation interest of a Site of Special Scientific Interest, National Nature Reserve or Marine Conservation Zone will not be permitted.

Exceptionally, where it can be demonstrated that the need for the proposed development is compelling and overrides the national importance of the site, and it has been demonstrated that no suitable alternative site exists, mitigating measures will be required to maintain the integrity of the site, to the satisfaction of the appropriate authority.

“The proposed development will, wherever possible and appropriate, include measures to enhance and improve connectivity to designated sites.”

Q10. Unlike Policies GI01 and GI02, Policy GI03 does not include a reference to permitting development if the need outweighs the importance of the designated site. Why is the approach different? Is this policy justified?

RIGS sites do not benefit from statutory protection - the Thanet Local Plan 2006 considered RIGS sites to be equivalent to Local Wildlife Sites in terms of their status within the planning context. The policy does conform with Paragraph 117 of the NPPF in seeking to prevent harm to geological conservation interests.

The Council has agreed with Natural England to reword this policy as follows:

At RIGS sites, development which would result in the loss or obstruction of geological features of importance will ~~not~~ **only** be permitted **where a strategic need for the proposed development is identified which outweighs the importance of the locally designated sites and cannot be located elsewhere.**