

Thanet District Council Matter Statement

Matter 16 Design, Heritage and the Rural Economy
(Policies QD01-QD03, QD06-QD07, SP33-SP34, HE01-HE05, HO19 and
E15-E19)



Issue 1 – Design – Policies QD01-QD03, QD06-QD07 and SP33

Q1. Is it clear to decision-makers, developers and local communities what constitutes the “most recent government guidance” for the purposes of Policy QD01? Is the policy effective?

At the time of writing the policy, the Government’s position on sustainable development was still evolving. Since the beginning of this local plan process the Government policy has changed from withdrawing the code for sustainable homes and the target of zero carbon development.

More recently since the submission of the plan, there is now a move towards a low carbon agenda rather than zero carbon. The NPPG section on climate change recently changed (15/03/19) with the insertion of a new paragraph 012 which now permits Council’s to set

- ... set energy performance standards for new housing or the adaptation of buildings to provide dwellings, that are higher than the building regulations, but only up to the equivalent of Level 4 of the Code for Sustainable Homes.
- Are not restricted or limited in setting energy performance standards above the building regulations for non-housing developments.

To reflect this change the Council proposes that the beginning of policy QD01 be amended as follows:

All new buildings and conversions of existing buildings must be designed to reduce emissions of greenhouse gases and function in a changing climate. All developments will be required to:

- 1) Achieve a high standard of energy efficiency ~~in line with most recent government guidance and building regulations~~ to the equivalent of Level 4 of the Code for Sustainable Homes (subject to HE05 where applicable). Where viability is an issue, it will be incumbent on an applicant to demonstrate to the satisfaction of the Council why this standard cannot be achieved.

Paragraph 2.2.2 of the Viability Assessment (CD1.3) assumed that the Council would continue to apply energy standards equivalent to former Code Level 4. Therefore this has been taken into account in the assessment.

Q2. Is it necessary and effective to have a policy requiring development to accord with Building Regulations?

It is applicable to refer to building regulations where the Council is requesting higher water efficiency and wheelchair accessibility in other policies. Building control colleagues have advised that the building regulations for higher standards can only be implemented if there is a local plan policy in place.

Q3. What is the justification for requiring residential development on garden land to make a positive visual impact to an area in Policy QD02? Is this consistent with the requirements in Policy HO1?

Policy H1 of the adopted Thanet Local Plan 2006 (CD7.9) states that residential development on non-allocated sites would only be permitted on previously developed land within the urban confines (this was also included in Policy HO1 of the Pre-submission draft of the Local Plan).

Since then, the definition of previously developed land has been amended and excludes garden land in built up areas. Subsequent planning applications were assessed against Policy H1, and some applications were refused (with some being allowed at appeal) as the principle of development was contrary to the policy as garden land was no longer considered previously developed, and some applications were granted as a departure to that policy.

Some applications for residential development on garden land would positively contribute to the street scene by enhancing the character of an area, or improving a vacant space with little amenity value.

Many areas of Thanet have a high townscape quality in terms of the appearance of buildings, the spaces between buildings and the routes that link buildings and spaces. The Isle of Thanet Local Plan (1998) and the Thanet Local Plan (2006) identified Areas of High Townscape Value (AHTVs) which possessed certain characteristics and a positive visual impact, meriting special recognition and recognition in policy. These characteristics varied between areas but mainly related to the separation between buildings, open forms of development and contributions made by landscaping.

The AHTV policy was reviewed as part of the process in preparing this Local Plan. It materialised that whilst some planning applications were determined against the policy, other local plan policies could achieve the same determination. It was also considered that there were other areas in Thanet that met the AHTV characteristics. It was considered appropriate not to carry forward the AHTV policy, but to reflect its sentiments in other policies in the emerging local plan.

Policies HO1 and QD02 include clauses that would enable appropriate developments on garden land to be granted without being a departure to the policy requirement for development on non-allocated sites to be only on previously developed land (this requirement has been removed as part of the re-drafting of Policy HO1 following discussions at previous Hearing sessions). The requirement for such developments to make a positive visual impact to an area reflects the sentiments of the former AHTVs.

Q4. Does Policy QD02 provide an appropriate policy framework to ensure that developments create safe environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion? As submitted is the policy consistent with paragraph 58 of the Framework?

Part 4) of the policy addresses creating safe and accessible environments, and promoting public safety and security by designing out crime. Further advice is set out in paragraph 13.24. In addition the Council has adopted Kent Design, a design guide, as SPD in 2006.

This was produced in partnership with other Kent Districts including KCC and Medway Council together with representatives from the development industry and has been periodically updated. The guide provides best practice in design, particularly in relation to local distinctiveness. It also contains a section on advice for reducing crime through design. The plan could be amended to refer to Kent Design as an example of best practice in paragraph 4.75.

<https://www.kent.gov.uk/about-the-council/strategies-and-policies/regeneration-policies/kent-design-guide>

Q5. Does the Plan make sufficient provision for inclusive design and accessible environments in accordance with paragraphs 57, 58, 61 and 69 of the Framework?

The plan contains several references to inclusive design and accessible environments. Policies SP33 and QD02 both refer to inclusive design and accessible environments, particularly part 2) of QD02. The plan is also seeking to implement the standards for accessible and adaptable accommodation in policy QD05 which has been debated at earlier hearings.

Part 3) of the policy addresses access for all including the provision of disabled access. In relation to open space paragraph 13.13 refers to the Sport England Active Design Guide which includes the principle of activity for all.

Q6. Policy QD03(3) requires the provision of private or shared external amenity/play space in new residential development. Is this suitably flexible to take account of circumstances where this may not be possible, such as the conversion of an existing building or where shared amenity space will be provided on site?

This clause states that residential development ‘should’ provide.....rather than ‘must’ provide. This acknowledges that it may not always be possible for private or shared external amenity space to be provided, and allows the flexibility to approve applications even in circumstances where this is not achievable. For effectiveness, in order to recognise the issue above, it is proposed that criteria 3 of policy QD03 be amended

All new development should:

- 1) Be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions through overlooking, noise or vibration, light pollution, overshadowing, loss of natural light or sense of enclosure.
- 2) Be of appropriate size and layout with sufficient usable space to facilitate comfortable living conditions and meet the standards set out in QD04.
- 3) Residential development should include the provision of private or shared external amenity space/play space, **where possible**.
- 4) Provide for clothes drying facilities and waste disposal or bin storage, with a collection point for storage containers no further than 15 metres from where the collection vehicle will pass.

Q7. What is the justification for requiring bin storage facilities within 15 metres from where the collection vehicle will pass in Policy QD03(4)? Is the policy justified and effective?

This was taken from the Council's Recycling and Waste Service Standards policy document at the time and is a practical requirement from operational services. This document has since been updated but the requirement remains the same in section 5.

<https://www.thanet.gov.uk/wp-content/uploads/2018/08/Recycling-and-Waste-Service-Standards-2017-2020.pdf>

Q8. What is the justification for requiring an independent design review for proposals under Policy SP33? Will it be sufficiently clear to decision-makers, developers and local communities when such a review will be required?

Good design is important as it can help improve and enhance areas and encourage regeneration. The supporting paragraphs 4.74 to 4.77 of SP33 set out the reasons for requiring a Design Review and the circumstances in which a review may be required. The general thrust of the policy is in line with paragraph 62 of the 2012 NPPF and para 129 of the current NPPF.

The council has used a design review on major schemes and also schemes in sensitive locations to help inform planning applications. This approach is also in line with the new Government initiative "Building Better, Building Beautiful Commission" which is looking will advise government on how to promote and increase the use of high-quality design for new build homes and neighbourhoods.

It is not possible to be prescriptive at this stage, but the policy provides a sound basis upon which to guarantee good design in the instances identified and pre-application discussions will provide the practical means through which this requirement will be identified and sought.

Issue 2 – Conservation of the Historic Environment – Policies SP34 and HE01-HE05

Q1. What does Policy SP34 require of proposals for new development?

Policy SP34 is a strategic policy that sets out the Council's approach to the Historic Environment and seeks to protect it from inappropriate development. It encourages the re-use of empty historic properties and it has been suggested by Historic England that bullet point 2) includes a reference to heritage at risk. It is proposed to add after "bring listed buildings back into use" **including heritage at risk**. The policy requires new development to address the impact on and significance of a heritage asset where this is affected by the proposal. The supporting text in paragraph 4.89 sets out further advice, however, it is felt that this should be part of the policy. It is therefore suggested that the text in paragraph 4.89

become the criteria for a policy and the criteria in the existing policy reads more like a statement of intent and should be in the supporting text.

Replace policy SP34 with text from paragraph 4.89 text as follows:

~~The Council will support, value and have regard to the historic or archaeological significance of Heritage Assets by:~~

- ~~1) protecting the historic environment from inappropriate development,~~
- ~~2) encouraging new uses where they bring listed buildings back into use, encouraging their survival and maintenance without compromising the conservation of the building or its historical or archaeological significance,~~
- ~~3) requiring the provision of information describing the significance of any heritage asset affected and the impact of the proposed development on this significance,~~
- ~~4) facilitating the review of Conservation Areas and the opportunities for new designations,~~
- ~~5) recognising other local assets through Local Lists,~~
- ~~6) offering help, advice and information about the historic environment by providing guidance to stakeholders, producing new guidance leaflets, reviewing existing guidance leaflets and promoting events which make the historic environment accessible to all,~~
- ~~7) issuing Article 4 Directions which will be introduced and reviewed as appropriate,~~
- ~~8) supporting development that is of high quality design and supports sustainable development.~~

~~All reviews and designations will be carried out in consultation with the public in order to bring a shared understanding of the reasons for the designation and the importance of the heritage asset.~~

New wording for policy SP34

Where development is proposed that may affect a heritage asset (whether designated or non-designated) or its setting, the Council will require the provision of the following information, proportionate to the asset's significance:

- 1) a description and assessment of the significance of the asset, including its setting, to determine its architectural, historical or archaeological interest;
- 2) Identification of the impact of the proposed development on the significance and special character of the asset and its setting;
- 3) the provision of clear justification for the works, especially if these would harm the significance of the asset or its setting, so that the harm can be weighed against public benefits.

A change of use of a heritage asset will be supported provided:

- 4) the proposed use is considered to be the optimum viable use, and is compatible with the fabric, character, appearance and setting of the heritage asset;
- 5) such a change of use will demonstrably assist in the maintenance or enhancement of the heritage asset; and
- 6) features essential to the special interest of the individual heritage asset are not lost or altered to facilitate the change of use.

Replace paragraph 4.89 with the following

The Council will support, value and have regard to the historic or archaeological significance of Heritage Assets by:

- 1) **protecting the historic environment from inappropriate development,**
- 2) **encouraging new uses where they bring listed buildings back into use, encouraging their survival and maintenance without compromising the conservation of the building or its historical or archaeological significance,**
- 3) **requiring the provision of information describing the significance of any heritage asset affected and the impact of the proposed development on this significance,**
- 4) **facilitating the review of Conservation Areas and the opportunities for new designations,**
- 5) **recognising other local assets through Local Lists,**
- 6) **offering help, advice and information about the historic environment by providing guidance to stakeholders, producing new guidance leaflets, reviewing existing guidance leaflets and promoting events which make the historic environment accessible to all,**
- 7) **issuing Article 4 Directions which will be introduced and reviewed as appropriate,**
- 8) **supporting development that is of high quality design and supports sustainable development.**

All reviews and designations will be carried out in consultation with the public in order to bring a shared understanding of the reasons for the designation and the importance of the heritage asset.

Q2. Is Policy HE03 consistent with paragraph 135 of the Framework which states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining planning applications. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset?

It is proposed to amend the policy as set out below to be more consistent with the NPPF.

“The Council supports the retention of local heritage assets, including buildings, structures, features and gardens of local interest. Local heritage assets will be identified in a local list as part of the Heritage Strategy.

Proposals that affect non-designated heritage assets and their settings, will be assessed by reference to the scale of harm (both direct and indirect) **which would be caused to the significance of the asset and its setting.** ~~or loss and the significance of the heritage asset. Proposals will only be permitted where they retains the significance, appearance, local distinctiveness, character or setting of a local heritage asset.”~~

Q3. Is Policy HE04 consistent with national planning policy, having particular regard to its approach to historic parks and gardens, whether or not they are included on the statutory list?

Paragraph 126 of the NPPF states that local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. It also recommends that Local Plans should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. Historic parks and gardens are a particular feature and local historical asset in Thanet. There are a number of parks and gardens which add to the local distinctiveness of the urban environment of Thanet and are important breaks in the otherwise continuous urban area. The importance of these features are set out in paragraphs 14.23 to 14.26 of the plan. As well as their contribution to the urban form, in some cases they are also important for informal recreation and biodiversity.

~~Planning permission will not be granted for any development that will adversely affect the visual, historical or horticultural character of an historic park or garden or its setting, whether or not it is included on the statutory register.~~ Development proposals that affect historic parks and gardens and their settings should:

- 1) not adversely affect the visual, historic or horticultural character and appearance of the park or garden;**
- 2) conserve the landscape (and any architectural elements) within the park or garden which serve to define its character;**
- 3) where possible, enable appropriate restoration and/or enhancement of those features that give rise to, or assist in defining, their significance.**

Issue 3 – The Rural Economy – Policies HO19 and E15-E19

Q1. Is it clear to decision-makers, developers and local communities what is required to demonstrate that agricultural units are ‘viable’ in Policy HO19? Is the policy effective?

The purpose of this requirement (specific to new farm holdings) is to ensure that proposals for new agricultural dwellings on newly-created farm units are genuinely required.

In the past, Thanet has experienced cases where small agricultural holdings have been established, and which have provided justification for new agricultural dwellings. In some cases, these farm holdings have not been successful, and effectively isolated new dwellings have occurred in the countryside without real justification, contrary to the guidance in the NPPF.

This could be demonstrated by means of a farm business plan (such as that recommended by Defra for general business purposes). The supporting text can be amended to reflect this by adding a sentence at the end of para 11.23 referring to the type of information required.

Q2. Is Policy HO19 consistent with paragraph 55 of the Framework which refers to the essential need for a rural worker to live permanently at or near their place of work in the countryside?

The Policy is consistent with the NPPF in relation to agricultural workers, in that it seeks to ensure that the “essentiality” required by the NPPF is demonstrated through the planning application process.

However, the policy does not refer to rural workers, and it could be amended to include rural workers other than agricultural workers.

Q3. What is the justification for requiring development proposals for economic development to be located in “sustainable locations” in Policy E15? How will decision-makers, developers and local communities determine what constitutes a sustainable location? Is the policy effective?

The rationale for requiring development proposals to be in sustainable locations reflects paragraph 28 of the NPPF which supports “sustainable growth” and the fact that the policy would allow economic development outside the urban confines and in the open countryside. Sustainable locations would ensure that the development was accessible and had reasonable access to amenities.

The Framework sets out how to achieve sustainable development and bullet point 11 of paragraph 17 (Core Principles) talks about managing patterns of growth to make the fullest possible use of public transport, walking and cycling.

To be helpful we could define sustainable locations in the glossary

Q4. What is the justification for requiring development proposals to accord with criteria 1-6 in Policy E16?

The policy seeks to ensure that any conversion is in keeping with the character of the area, does not impact adversely on the highway network, protects listed buildings and their settings, considers the impact of the conversion on remaining complex (if there is one) and protects wildlife.

Natural England have requested that the reference to the Wildlife and Countryside Act 1981 in light text is corrected to read “(as amended)”. They also suggest referring to the Conservation of Habitats and Species Regulations 2017 instead as this is the highest tier of relevant legislation (transposing the European Habitats Directive into UK law) – all bat species are protected under the Habitats Regulations for example. The Council propose to change the reference to this in light introductory text to the policy. Natural England also suggest an amendment to clause 6 of Policy E16 and this is reflected in the modification suggested below.

It is considered that some modifications are required to tidy up the policy. The following is proposed for the Inspectors’ consideration:

Policy E16 - Conversion of rural buildings for economic development purposes

Where it can be demonstrated that a rural building is not needed for an agricultural use, its conversion for economic development purposes will be permitted where all the following criteria are met:

- 1) **Their** form, bulk and general design are in keeping with the character of the surrounding countryside;
- 2) The proposed use is acceptable in terms of its impact on the ~~surrounding area and the~~ local highway network;
- 3) It can be demonstrated through a structural survey that the building is capable of conversion;
- 4) ~~any alterations associated with the conversion would not be detrimental to the distinctive character of the building (or its setting), its historic fabric or features.~~
- 5) if the building forms part of a complex of agricultural or industrial buildings, a comprehensive strategy is put forward which shows the effects on the use of the remaining complex, ~~and on any listed buildings and their settings.~~
- 6) ~~where the building currently contains protected species, mitigation should be provided.~~

Q5. What is the justification for restricting development proposals that would result in the “irreversible loss” of best and most versatile agricultural land in Policy E17?

Farm diversification in Thanet is likely to have an effect on best and most versatile agricultural land. Due to the level of development already proposed on best and most versatile agricultural land in the district it was considered that this policy wording is justified.

There is a range of farm diversification that could take place that would not result in the irreversible loss of best and most versatile agricultural land and therefore it is not considered that this wording is overly restrictive.

Q6. Is Policy E17 consistent with paragraph 28 of the Framework which, amongst other things, states that local plans should promote the development and diversification of agricultural and other land-based rural businesses?

It is considered that the policy is consistent with paragraph 28 of the Framework as diversification of agricultural businesses is supported.

Q7. Is Policy E18 consistent with paragraph 112 of the Framework relating to the use of best and most versatile agricultural land?

It is considered that the policy is consistent with paragraph 112 of the framework as it directs development to poorer quality land. The majority of Thanet's agricultural land is best and most versatile and a significant amount of this land is allocated for development. Due to this and the lack of availability of poorer quality land it is considered that the policy criteria are justified. It is considered that the policy strikes the balance between local distinctiveness and sufficient flexibility to be in accordance with paragraph 112 of the Framework.

Q8. Is Policy E19 consistent with paragraph 28 of the Framework which, amongst other things, states that local plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings?

It is considered that the Policy is consistent with Paragraph 28 of the Framework. Policies E15 and E16 deal specifically with paragraph 28 whereas this deals specifically with agricultural development. Considering that E15 and E16 deal with all types of business and enterprise in the rural area it is questionable whether this policy is necessary.