

Thanet District Council

Matter Statement

**Matter 18: The Environment and Climate
Change**

(Policies SP35, CC01-CC07 and SE01-SE08)



Issue 1 – Climate Change – Policy SP35

Q1. Is it clear to decision-makers, developers and local communities what is required of proposals for new development under Policy SP35? Is the policy effective and how does it relate to the more specific policies on climate change in Chapter 15 of the Plan?

Policy SP35 provides the overarching strategic policy to address climate change in line with paragraph 156 of the NPPF. Some minor rewording has been suggested by Kent County Council and Natural England and it is proposed to amend the policy as follows to be more effective.

New development must ~~take account of~~:

- 1) **respond** ~~adapting~~ to climate change by minimising vulnerability and providing resilience to the impacts of climate change **through the use of up to date technologies, efficient design and appropriate siting and positioning of buildings;**
- 2) **mitigate** ~~Mitigating~~ against climate change by reducing emissions and energy demands **through the use of up to date technologies;**
- ~~3) Improving building resilience to climate change through the use of best available technology~~
- 3) **4) realise and make best use of available** opportunities to reduce the impact of climate change on biodiversity **and the natural environment by providing space for habitats and species to move through the landscape and for the operation of natural processes, particularly at the coast.**

Issue 2 – Flooding – Policies CC01-CC03

Q1. Is Policy CC01 consistent with paragraphs 100-102 of the Framework regarding when the Sequential and Exception tests should be required? Should the policy also take account of surface/groundwater flooding?

The Council has considered the representation from EA and is proposing to amend the policy to be consistent with the framework.

~~Development will not usually be appropriate in areas falling within the identified Environment Agency's flood zones 2 and 3.~~

~~Where there is no alternative to developing~~ **New development** in an area identified as being at risk of flooding and **falling within Flood Zones 2 and 3 will only be permitted if it can be demonstrated that it satisfies** the Sequential Test **and, where required, the Exceptions Test**, ~~and exception test as set out in the NPPF will be applied.~~ Development proposals in these areas **shall be accompanied by** ~~will need~~ a Flood Risk Assessment ~~to be carried out by the developer~~ **which should address flood risk from all sources of flooding including surface and groundwater flooding.**

In order to clarify the NPPG point that flood risk includes all sources of flooding including surface and groundwater flooding it is proposed to also add a sentence to the end of the policy to address this, as set out above.

Q2. How does the Plan consider the multi-functional benefits of Sustainable Urban Drainage Systems ('SUDS'), such as the provision of amenity and biodiversity benefits?

Para 15.10 sets out the additional benefits of SUDS schemes - benefits for amenity, recreation and wildlife.

Draft Policy CC02 also states that SUDS scheme design, "together with a robust long term maintenance plan should be considered as an integral part of the master planning and design process for new development".

Natural England and KCC have both requested that minor amendments be made to CC02 to reflect the multi-functional benefits of SUDS, including biodiversity potential.

Policy CC02 add wording:

New development **is required** ~~will be expected~~ to manage surface water resulting from the development using sustainable drainage systems (SUDS) wherever possible. SUDS design, together with a robust long term maintenance plan should be **included** ~~considered~~ as an integral part of the ~~master~~ planning and design process for new development **and should, wherever possible, incorporate multi-functional benefits for people and wildlife.** Developers should **demonstrate how the** ~~seek and refer to~~ guidance produced by the Lead Local Flood Authority (LLFA) **has been taken into account and applied** when submitting a planning application for any major development. Approval ~~of~~ for the design and **measures to be implemented for the** long term maintenance of SUDS will be required prior to development being permitted.

Q3. What is the justification for the threshold distance of 40m in Policy CC03? Is it clear to decision-makers, developers and local communities when this policy applies? Will it be effective?

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.

The purpose of the policy is to ensure that residential development is not permitted along vulnerable coastlines where coastal erosion processes may put people or property at risk, or potentially reduce the lifespan of those dwellings. The policy objective is set out in para 15.22 of the draft Plan.

Add the following text to the end of paragraph 15.22

Which may put people or property at risk, or potentially reduce the lifespan of those dwellings.

Q4. Does Policy CC03 ensure that new development proposals take account of natural habitats and how they might respond to coastal change?

There are other policies in the draft Plan (notably SP25, SP27 and SP28) which address development impacts on designated sites, especially at the coast. However, to address the point raised by Natural England in respect of coastal squeeze by adding a third criteria.

Proposals for new development within 40 metres of the coastline or clifftop must demonstrate to the satisfaction of the Council that it will not:

- 1) expose people and property to the risks of coastal erosion and flooding **for the life of the development;** ~~or~~
- 2) accelerate coastal erosion due to increased surface water run off; ~~before planning permission can be granted~~
- 3) **impact on natural habitats through the process of coastal squeeze or otherwise restrict the capacity of the coastline to adjust to sea-level rise and climate change.**

Q5. Is it clear to decision-makers, developers and local communities when Flood Risk Assessments will be required? Should Policy CC01 also refer to sites over 1 hectare in size in Flood Zone 1?

It is proposed to amend the wording of policy CCO1 in light of comments from the Environment Agency see response to question 1. In relation to flood zone 1 and developments over 1 hectare, this is already included in the validation checklist for planning applications. For clarity the last sentence of the policy could be amended to state that a flood risk assessment will be required for development over 1 hectare in flood zone 1.

Development proposals in these areas **shall be accompanied by** ~~will need~~ a Flood Risk Assessment, **including developments over 1 hectare in Flood Zone 1,** ~~to be carried out by the developer~~ **which should address flood risk from all sources of flooding including surface and groundwater flooding.**

Issue 3 – Renewable Energy – Policies CC04-CC07

Q1. What is the justification for requiring major new development proposals to include renewable energy or micro-generation equipment? Is it clear to decision-makers, developers and local communities what is expected of proposals for new development?

Paragraph 97 of the NPPF states that policies should maximise renewable and low carbon energy development while ensuring any adverse impacts are addressed. Also the PPG states that the UK has legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources. Policy CC04 states that the provision of renewable energy or micro-generation equipment is an expectation, rather than a requirement, as this may not always be achievable.

Paragraph 15.24 explains that the Council encourages provision for renewable energy or micro-generation equipment to be included in development proposals at the master planning stage. To

improve the clarity of the policy it is proposed to amend the wording, taking into account comments received from Heritage England and KCC.

Proposals for major new developments will be expected to make provision for shall demonstrate that they will make maximum use of renewable energy or micro-generation equipment as part of their proposals subject to the following criteria: and to this end shall include a feasibility assessment taking into account site location and viability. Proposals for renewable energy or micro-generation facilities in new developments should ensure that: Applicants will need to demonstrate how the following issues have been taken into account where applicable:

~~4) They have considered the environmental, social and economic benefits of their proposals.~~

1) ~~2)~~ There are no significant adverse impacts on the surrounding area such as visual, noise and amenity.

2) ~~3)~~ Visual **and landscape** impacts have been minimised in the design and layout of the scheme;

3) ~~4)~~ There is no significant **loss of impact on** residential amenity of local residents.

4) ~~5)~~ There is no adverse impact on heritage assets **or their setting**.

5) ~~6)~~ There is no significant impact on the landscape setting, habitats, biodiversity or wildlife assets, particularly protected species and habitats.

6) ~~7)~~ They do not have an impact on the best and most versatile agricultural land unless that it can be demonstrated that it is necessary and no alternative lower grade land is available.

Q2. How does Policy CC04 take account of circumstances where the provision of renewable energy or micro-generation equipment may not be appropriate, feasible or viable?

The PPG states that different technologies have different impacts and impacts can vary place by place. This is reflected in the criteria set out in the policy.

Appendix 1 of the Viability Assessment (CD1.4) assesses Policy CCO4 and considers that any viability impacts will be reflected in usual build costs (although the costs of many renewable energy technologies are falling according to the NPPG).

The provision of renewable energy or micro-generation equipment is an expectation, so the policy does not seek their provision in circumstances where it is not appropriate, feasible or viable to do so.

Q3. What is the justification for requiring the provision of an Energy Statement in Policy CC05?

Para 96 of the NPPF states that planning applications should comply with local plan policies requiring a decentralised energy supply unless it can be demonstrated by the applicant that it is not feasible or viable. The provision of an Energy Statement as requested in Policy CC05 provides the applicant the opportunity to provide this (it can be part of a masterplan/planning statement). Paragraph 97 of the NPPF supports community-led initiatives for renewable and low carbon energy sources and decentralised energy supply systems.

As set out in paragraphs 13.4 to 13.8 of the submission plan, Thanet has the highest percentage of fuel poverty in Kent. Recent figures from KCC show this to be 11.4% in 2018 compared to a

South East average of 9%. By requiring an energy statement, this is encouraging the developer to explore potentially cheaper energy systems which can help to reduce fuel poverty.

It is suggested that the following text be added to 15.29

Energy statements are a useful tool for considering the energy strategy for major sites. These could consider any of the following aspects:

- * **the overall energy strategy for the site**
- * **the energy demands for the development**
- * **an assessment of the feasibility of the available renewable and low carbon technologies**
- * **assessment of the likely energy savings and emissions**
- * **costs of technology where viability is a concern**
- * **other potential impacts of renewable energy and low carbon technologies**
- * **long term management of energy supply on site**

Policy CC05

It is suggested that policy CC05 be amended to clarity:

Support will be given to the inclusion of district heating schemes in new development. Major development proposals should be supported by an Energy Statement to demonstrate ~~why district heating can or cannot be delivered~~ **that the inclusion of such a scheme has been considered. Where a district heating scheme cannot be provided the developer should set out the reasons for this.**

Q4. Is Policy CC06 consistent with national planning policy and guidance, and how will it ensure that new development proposals take account of any effects on the Thanet Coast SPA and Ramsar site in particular?

The policy is consistent with national planning policy as paragraph 007 of NPPG on Renewable and low carbon energy states that criteria policies should be expressed positively. The criteria listed in paragraph 007 is reflected in the policy. Paragraph 97 of the NPPF sets out the importance of considering the cumulative landscape and visual impact.

Any development proposal will need to be assessed against policy SP25 to assess whether it has a significant effect either in isolation or in combination, on the SPA, SAC and Ramsar. However, Natural England raised a particular point in relation to functional land and mitigation and has suggested some additional text to the policy which could be incorporated as an amendment.

Suggested amendment to policy CC06

Applications for solar parks will only be permitted if there is no significantly detrimental impact on any of the following:

- 1) Thanet's historic landscapes
- 2) Visual and local amenity, including cumulative effects
- 3) Heritage assets and views important to their setting

Proposals on agricultural land must demonstrate that the proposal will comply with all of the following:

- 4) Cause minimal disturbance to the agricultural land and

- 5) Be temporary, capable of removal and reversible, and allow for continued use as such on the remaining undeveloped area of the site.
- 6) Provide biodiversity enhancements.

The need for renewable energy does not automatically override environmental considerations.

Solar park proposals will be assessed for their impact on the Thanet Coast SPA and Ramsar site in order to ensure no loss of functionally linked land and provide mitigation if required.

Q5. How will development proposals for wind turbines be considered under the policies contained in the Plan? Is the Plan consistent with national planning policy in this regard?

Work carried out by KCC into renewable resources in Kent indicate that there is limited potential for onshore wind farm generation in Thanet. However, there are significant offshore resources being developed. These are usually NSIPs, to which the Council is a statutory consultee, not the decision-maker.

https://www.kent.gov.uk/_data/assets/pdf_file/0003/11991/Kent-Renewable-Energy-Part-2-April-2012-Updated-Version-Final.pdf (p22)

https://www.kent.gov.uk/_data/assets/pdf_file/0011/89498/Renewable-energy-for-Kent-2017-action-plan-update.pdf (p45)

Policies for wind turbines will need to be assessed against the strategic environment policies specifically Policy SP23, Policy SP25 and SP27 and CC04 and CC05.

Q6. What is the justification for Policy CC07? Is clear to decision-makers, developers and local communities where the policy applies to?

See response below

Q7. Does Policy CC07 require applicants to consider impacts other than on sites of nature conservation value, such as heritage assets? Is the policy effective in this regard?

Response to Q6 and Q7:

Policy CC07 was developed at a time when the Richborough Power Station had closed, and alternative uses were being sought for the site. One of the key areas being explored was the re-use of the existing facilities for an alternative power source, such as the use of orimulsion or waste to energy. The existing facilities were demolished in 2012.

At the time, significant concerns were raised about the potential effect of some power sources on the adjacent Weatherlees Hill SSSI and the nearby SPAs, SACs and Ramsar Sites at Pegwell and Sandwich Bays.

While the Council is supportive of the development of renewable energy sources, it is important that forms of renewable energy on this site do not conflict with the need to ensure there is no

significant impact on sites designated for their national or international wildlife or habitat importance.

The site is currently a recycling and renewable waste management facility and Policy CC07 reflects the existing uses in this area.

There are no heritage assets in the immediate vicinity, that are likely to be directly affected by developments on this site. However, the policy could be amended to include reference to heritage assets.

Proposals for the development of renewable energy facilities at Richborough will be permitted if it can be demonstrated that the development will not be detrimental to nearby sites of nature conservation value **or heritage assets** and that any potential effects ~~can be~~ **would** be fully and ~~suitably~~ mitigated.

The site could be identified on the Policies Map for clarity.

Issue 4 – Contamination and Pollution – SE01-SE08

Q1. Are policies SE01-SE03 consistent with paragraph 109 of the Framework which, amongst other things, states that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate?

Yes. Section 170 f) of the revised NPPF (February 2019) states that: 'planning policies and decisions should contribute to and enhance the natural and local environment by...remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate'.

Policy SE01 requires appropriate information on risks from potentially polluting development be provided to the LPA to enable assessment. Policy SE02 requires that the planning applications on or near landfill sites or unstable ground will only be permitted when it is demonstrated that there is no unacceptable risk to the development and Policy SE03 requires that potentially contaminated sites be brought into beneficial use provided they can be rendered suitable for the proposed end use. Such developments on known or suspected sites affected by contamination will only be permitted where appropriate site investigation and remediation provides effective safeguards against the identified hazards.

Para 16.11 of Local Plan requires updating to reference new Contaminated Land Strategy; adopted in January 2019, which sets out the Council's position on the remediation of brownfield land:

<https://www.thanet.gov.uk/wp-content/uploads/2019/02/Contaminated-Land-Strategy-2018-2023.pdf>

Environment Agency has recommended that this policy be renamed to **Land affected by contamination**, to avoid confusion, which the council is happy to do.

Amend first sentence of paragraph 16.9 to read “Some sites in Thanet are known to be contaminated **affected by contamination.**”

16.10 Development on ~~contaminated land~~ **land affected by contamination** will require a site investigation and assessment to establish the levels of contamination present and identify any remedial measures to clean the site to make it suitable for its proposed end use **and remediate risks to the wider environment.**

16.11 ~~A County-wide Contaminated Land Strategy is being prepared by the Kent & Medway Contaminated Land Forum and will form part of the evidence base for this Plan once it has been finalised. The strategy provides information across the county in place of former Planning Policy Statement 23 (PPS23).~~ The Council **adopted** has a **revised** Contaminated Land Strategy (**January 2019**) ~~for the district this is currently being reviewed~~ **which sets out the Council’s position on the remediation of brownfield land in relation to the EPA 1990 Part IIa duties and links with the planning regime.**

Q2. How will Policy SE04 ensure that development proposals involving piled foundations take account of the risks of ground disturbance that may cause turbidity in the water supply, potentially resulting in contamination reaching groundwater beneath any sites impacted by contamination and/or landfill?

In accordance with Policy SE04 (which states that proposals for developments within Groundwater Source Protection Zones will only be permitted if there is no risk of contamination to groundwater sources) and policy SE03 (which covers suspected contaminated land), the Environment Agency are consulted in relation to Groundwater Protection measures. This will include the assessment of piled foundations, where appropriate.

However, as EA has raised this issue, it is suggested that the following text be added to the policy:

Proposals for development with the Groundwater Protection Zone identified on the Policies Map will only be permitted if there is no risk of contamination to groundwater sources. If a risk is identified, development will only be permitted if adequate mitigation measures can be implemented. **Proposals which involve the use of piled foundations on contaminated sites must demonstrate that they will not cause disturbance of any ground so as to cause turbidity in water supply and/or create pathways enabling contaminated materials to reach the groundwater.**

Proposals for Sustainable Drainage systems involving infiltration must be assessed and discussed with the Environment Agency to determine their suitability in terms of the impact of any drainage into the groundwater aquifer.

In addition, Kent County Council are suggesting that paragraph 16.17 be amended to more accurately reflect the relationship of SUDS and groundwater.

~~“Some methods of Sustainable Drainage can cause detriment to the groundwater. However,~~ Well designed SUDS in suitable locations can improve the volume of groundwater available without affecting the quality; **however locations and depths of discharge to ground** ~~. Therefore discharges to the ground must be carefully designed to~~

ensure that they are appropriate and do not cause further degradation. SUDs must be designed so that pollutants are removed prior to discharge, and where possible, properly designed in order to improve the groundwater quantity.”

Q3. Is it necessary for Policy SE04 to refer to the provision of water supply or foul drainage in a timely manner to ensure that it is effective, and that new development is not unduly delayed?

Drainage and provision of water is outside the scope of SE04. This is covered under policies SP01 and SP12 for housing development and general pollution prevention policy SE01. This was raised under Matter 6 and the Council is looking to address this under relevant policies, including specific allocation policies, in conjunction with Southern Water.

Q4. Is it sufficiently clear to decision-makers, developers and local communities what is required to meet Policy SE05 with regard to promoting the use of sustainable low emission transport? Is the policy effective?

All development with >10 parking spaces within the urban AQMA is required to implement standard mitigation i.e. 1 EV charger per dwelling with dedicated parking and 10% of unallocated spaces (para 16.27). This is an extensive area compared to most local authorities outside London. Although air quality is generally good in Thanet the Urban AQMA has enabled the Council to take a strategic approach to improving air quality over the coming years; it will continue to yield widespread implementation of EV charging points.

All major development, as defined by DfT Transport Assessments criteria, will require an Emissions Mitigation Assessment in addition to standard mitigation. This uses Defra’s Emissions Factor Toolkit EFT and damage costs to calculate the amount (value) of mitigation that is expected to be spent on measures.

In some cases an Air Quality Assessment will also be required where there is a potential for the development to impact on nearby receptors or is in an area with known poor air quality.

The Air Quality Technical Planning Guidance contains the process; the Guidance has been approved as part of TDC’s Air Quality Action Plan.

Q5. How have the cumulative effects of the development proposed in the Plan on air quality been considered as part of the evidence-base? Where necessary is it clear to decision-makers, developers and local communities what mitigation will be required?

Trend analysis indicates that the level of pollution at heavily trafficked hotspots across Thanet is reducing. Only the junction at High Street St Lawrence exceeds the health objective for nitrogen dioxide annual mean of 40ug/m³. The urban AQMA however, remains an effective tool at bringing about further air quality improvements across Thanet and will help offset impacts from transport generating development within. All strategic housing site allocations are within the urban AQMA and so will be subject to the requirements in TDCs Air Quality Technical Guidance.

Q6. Is it clear to decision-makers, developers and local communities where the Important Areas in the Noise Action Plan are located? Is Policy SE07 effective?

Noise Important Areas have been within Thanet where Defra mapping indicates noise exposure >65 dB(A), LA10,18h impacting on agglomerations >100,00 population.

Maps are available here: <http://www.extrium.co.uk/noiseviewer.html#>

TDC will require applications for residential development within these areas to have appropriate noise mitigation. KCC Highways are the responsible authority for preparing Noise Action Plans for roads and should also be consulted.

Q7. What constitutes a “large development” for the purposes of Policy SE08? As submitted is the policy effective?

Large developments should read major developments as this is defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010.

Amend second paragraph of the policy to read

In addition a lighting strategy may be required for ~~large~~ **major** developments or those developments with specific lighting requirements or for those that are in or adjacent to sensitive locations.

Q8. What is the justification for referring to the Institute of Lighting Professionals Standards in Policy SE08? Is it clear to decision-makers, developers and local communities what is required of proposals for new development? Is the policy effective?

The Local Plan should refer to the **Institution** of Lighting Professionals, rather than the the Institute of Lighting Professionals.

Para 180 of the new NPPF advises that planning policies should “...limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

There are very few contextually-based lighting standards that can be used by local planning authorities to provide advice on a differentiated basis for different environments. The ILE guidance is already used by a number of local planning authorities, either in policy or as SPD, for dealing with proposals that include an element of existing lighting.

The standard was first introduced in the 2006 Local Plan. It was supported by the Local Plan Inspector, who stated that he supported “the policy objectives to minimise glare, spillage, trespass and light glow, to protect residential amenity, the character of villages, the countryside and identified wildlife areas” and that he was “satisfied that these guidance notes are an appropriate standard”.

The Environment Agency has asked for paragraph 16.39 to refer to the impact on the aquatic environment and include reference to the guidance on impact on lighting on bats.

16.39 Inappropriate lighting has been shown to have major impacts on wildlife. **For example**, the impacts of light pollution on bat species and potential mitigation measures are particularly well documented.

Further guidance can be found in the ILP's recently updated guidance on the impact of light on bats: <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificiallighting/>.

However, lighting can have an impact on other species including those in the aquatic environment both directly and indirectly and advice from the appropriate bodies should be sought when developing lighting schemes