

Date: 31 May 2024  
Our ref: 469486  
Your ref: Regulation 18 Submission



Planning Policy Team  
Canterbury City Council

Customer Services  
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**BY EMAIL ONLY**

Dear Planning Policy Team,

**Draft Canterbury District Local Plan To 2040 – Regulation 18 consultation**

Thank you for your consultation on the above dated 12 March 2024 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has reviewed the Draft Local Plan together with the Habitats Regulations Assessment (HRA), Sustainability Appraisal (SA) and other relevant supporting evidence documents. We have also reviewed the related strategy and plan documents.

A summary of our advice is provided below, with detailed advice provided in annexes as indicated (following the structure of the Draft Plan). Please note that we have not provided comments on all policies and strategies but those which have the most influence on issues within our remit. If there are policies or topics not covered in this response where your Authority would particularly value our advice, then please let us know.

**Annexes:**

- 1. Chapter 1 – Spatial Strategy
- 2. Chapter 2 - Canterbury
- 3. Chapters 3 and 4 – Whitstable and Herne Bay
- 4. Chapter 5 - Rural
- 5. Chapters 6 and 7 – District-wide strategic and Development management policies
- 6. Sustainability Appraisal
- 7. Habitats Regulations Assessment (HRA)
- 8. Open Space Strategy

**Summary of Natural England's advice**

Natural England welcomes the many positive aspects of the Canterbury District Local Plan Regulation 18 draft to 2040 and look forward to working collaboratively with your authority to develop the plan. Natural England highlights the inclusion of the following which are particularly welcomed:

- Stand-alone policies for sites of international importance for habitats and species, sites of national importance for landscape and habitats and species as well as sites of local importance for habitats, species, geology and geomorphology.
- Commitment to supporting biodiversity recovery through the delivery a minimum of 20% Biodiversity Net Gain (BNG), the protection and enhancement of green and blue infrastructure throughout the plan and reference to the forthcoming Local Nature Recovery Strategy (LNRS) for Kent.
- Commitment to the protection and enhancement of landscape character.
- Commitment to the protection and enhancement of The Blean Woodland Complex.
- Provisions for pollinators.
- Explicit policy protection for dark skies and tranquillity in relation to the Kent Downs National Landscape.
- Intention to improve the quality of peoples' lives through increased opportunities to access nature and the countryside through the provision of high-quality open spaces.
- A clear requirement for developments to meet ambitious water efficiency targets which will assist in bringing positive benefits to protected nature conservation sites and providing resilience to the impacts of climate change.

However, we have identified the potential for significant impacts regarding the following site allocation policies:

- **Land at Canterbury Business Park (Policy C17) - Landscape impacts**
- **Land North of the University of Kent (Policy C12) – Biodiversity impacts.**

Additionally, we advise that the Sustainability Appraisal (SA) document lacks detailed recommendations on how the negative effects of the Plan are to be mitigated or resolved.

Your authority should consider throughout the plan the strengthened duty for protected landscapes under the provisions of the Levelling Up and Regeneration Act (LURA) 2023.

We welcome the continued consultation on developing the Habitats Regulation Assessment (HRA) for the Local Plan and recognise that further work in the following area will be required:

- Nutrient Neutrality (recognising ongoing our dialogue)
- Functionally-linked land (FLL) associated with bird populations of designated coastal Habitat Sites
- Air quality – particularly impacts from ammonia

I hope the advice and comments in this letter are useful. We remain committed to continuing to work closely with your Authority to help ensure that a sound plan is secured that enables growth in accordance with the principles of sustainable development. We would welcome the opportunity for further dialogue around the matters raised here in more detail, although depending on the nature and scope of such discussion this may need to be on a cost-recovery basis.

If you have any queries relating to the advice in this letter, please contact me on [REDACTED]. For any new consultations, or to provide further information on this consultation please send your correspondences to [REDACTED]

Yours sincerely

**Nancy Warne**  
**Senior Advisor**  
**Sussex & Kent Area Team**

## **Annex 1: Chapter 1 - Spatial Strategy**

### **1. Vision for the district to 2040**

Overall Natural England supports the Vision which emphasises the importance of improving the natural environment. We advise that it could be strengthened by the addition of a specific reference to the contribution that good-quality green and blue infrastructure makes in supporting multiple elements of the vision.

We, therefore, recommend that the vision entitled 'Improved connectivity' be amended to encompass a reference to ecological connectivity. We recommend the following wording:

*'To create and maintain easily accessible high quality public transport infrastructure, comprehensive walking and cycling networks, community facilities and green and blue infrastructure to encourage sustainable modes of travel which improve air quality, promote physical and mental health, support biodiversity, respond to the challenges of climate change and enhance the quality of life for our residents.'*

### **2. Strategic objectives for the district**

We support the principle of the sixth objective, with its commitment to protect and enhance the environment and valued landscapes; specifically focusing on the creation of a network of green spaces and supporting nature's recovery and biodiversity.

We advise that strategic objective six could be strengthened, as we previously advised in our comments from the 2021 Issues and Options consultation (Our ref: 358783, December 2021) and the 2022 Regulation 18 draft Local Plan (Our ref: 410619, January 2023). We recommend the following wording:

- *'protect and enhance our rich environment by delivering measurable biodiversity gains and ensuring the expansion and enhancement of ecological networks and green and blue infrastructure to support local priorities and drive nature recovery'*

This is supported by NPPF Paragraph 180.d) which states:

- *'Planning policies and decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;'*

### **3. Policy SS1 – Environmental strategy**

We strongly support the principle of the Environmental strategy.

#### *i) Green Infrastructure Framework*

We welcome the use of the earlier (2018) Green Infrastructure Strategy and the current Open Space Strategy to set out priorities for improving quality, quantity and functionality of your green spaces. We particularly support policy requirements SS1 (1), (2) and (7).

We strongly recommend embedding the Green Infrastructure Framework (GIF), standards and related process guidance, to support any revisions or future versions of a Green Infrastructure Strategy. These can be found here: [GI Standards \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/Green-Infrastructure-Strategy/GI-Standards). We would strongly encourage the Local Plan policies to explicitly reference and commit to the Green Infrastructure Framework targets and have provided further comments in relation to this throughout this letter and in our comments on the Open Space Strategy which are set out in Annex 8.

## ii) Soils

We note that Policy SS1 does not contain an appropriate policy requirement to protect and sustainably manage soils as well as safeguarding the long-term capability of Best and Most Versatile (BMV) agricultural land (where this impacts on 20ha or more of BMV).

The plan should have a policy for the protection of Best and Most Versatile (BMV) agricultural land in order to be consistent with the NPPF paragraph 180. a) which states that:

- *'180. Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);'*

Whilst we acknowledge that there is provision for the protection of BMV under Policy DS12 - Rural Economy, we advise that a district-wide provision within policy in respect of the protection of soils and BMV is required.

The Sustainability Appraisal (SA) acknowledges at paragraph 5.8.10 that the spatial strategy requirements are largely to be developed within allocations of greenfield land. It is envisaged that measures to provide significant open space and the provision of multifunctional green infrastructure are expected to help to support the sustainable use of land and conserve soil quality. However, we advise that greater clarity should be provided as to what might be expected in circumstance where development on BMV cannot be avoided. We would support the Council including a specific policy in relation to BMV. Alternatively, additional policy requirements could be included under Policy DS21 Supporting Biodiversity Recovery.

We recommend the following wording:

*'Avoiding loss of BMV land is a priority as mitigation may not be possible on development sites.*

- *Areas of poorer quality land (ALC grades 3b, 4, 5) should be preferred to areas of higher quality land (grades 1, 2 and 3a). This should be set out as policy and in land allocations.*
- *The plan should recognise that development has an irreversible adverse impact on the finite national stock of BMV land.*
- *Any development over 20ha on BMV should have a soil handling plan and sustainable soil management strategy based on detailed soils surveys.'*

We have made further comments on the protection of soils under policy DS21.

### **4. Policy SS2 – Sustainable Design strategy**

Natural England supports the Sustainable Design strategy, which includes policy provision for the requirement of accessible open space, especially in relation to natural and semi-natural greenspaces.

### **5. Policy SS3 – Development strategy**

Natural England did not support the Development Strategy in the Regulation 18 draft Local Plan (2022) given our objections to the Eastern Transport Corridor (previous Policy C16), the Canterbury Business Park (previously Policy C21) and the Cooting Garden Community (previous Policy R1). We note that both the Eastern Transport Corridor and the Cooting Garden Community allocations have now been removed from the Draft Plan, which we support.

We note that since the 2022 draft Local Plan the both the quantum of housing and employment

growth and the plan period have been reduced. The current Regulation 18 draft Local Plan now intends to deliver an average of 1,149 new dwellings per annum from 2020/21-2040/41, equating to a total of 24,129 new homes to 2040/41.

Section 5.6 of the Sustainability Appraisal (SA) sets out the revised preferred spatial strategy for this iteration of the plan and the reasons for amendments made since the Regulation 18 draft Local Plan (2022), which we now understand comprises:

- Canterbury Urban Area as the principal focus for growth
- Whitstable and Herne Bay Urban Areas as the secondary focus
- A new freestanding settlement North of the University of Kent campus
- Proportionate development at Rural Service Centres
- Limited growth at Local Service Centres
- No residential development in the countryside.

We note that the Council considers this approach to be the best reflection of stakeholders' concerns, including our own. We also note that the preferred spatial strategy seeks to minimise some of the significant negative impacts of the draft Local Plan, whilst still meeting the district's housing needs based on an updated affordability ratio, household growth figures and a shorter plan period.

We welcome that the Council has considered avoiding the potential impacts on the Kent Downs National Landscape in the rationale for the selection of the preferred University of Kent new settlement location. However, we note that the SA acknowledges that there is some uncertainty regarding impacts of this allocation with regards to the Blean Complex Special Area of Conservation (SAC).

Whilst we acknowledge the steps taken to minimise negative environmental impacts of the draft Local Plan, we note that the SA still assesses significant negative effects (as well as minor positive/positive effects) for biodiversity, landscape and land use and soil, as well as minor negative effects for air quality, water resource and quality for housing.

It is acknowledged in the SA conclusion in paragraph 5.9.4 that whilst the Draft Local Plan includes policies which seek to manage these effects, and consequently it is anticipated that significant adverse effects will be largely avoided, that some uncertainty remains with several of the Plan's policies. We have provided further comments on this in Annex 6.

In addition, we note that the SA's assessment of the preferred option for employment growth based on the Labour Demand Scenario in the Economic Development and Tourism Study Update (2023) appraises a mixed minor positive and minor negative for biodiversity, climate change and landscape; a mix of minor positive and significant negative effects for land use; and minor negative effects for air quality, climate, water resource and quality.

In relation to Policy C17 Land at Canterbury Business Park, which is a strategic employment development site wholly within the Kent Downs National Landscape, we note that the SA has assessed as a minor negative for landscape. As this allocation could be considered as a major development in the countryside there is a risk that this assessment of effects, doesn't capture the potential for significant negative effects for landscape.

Overall, we acknowledge that many of the draft Local Plan policies are contributing to positive effects to those sustainability objectives which relate to the natural environment, which is welcome. However, we have recommended some policy amendments which may help to avoid and minimise harm and to maximise the potential for positive environmental outcomes as a result of the plan. We have made further comments in relation to the allocation policies for which this applies within Annexes 2-4, and in Annex 6.

Whilst we broadly support the change to the spatial strategy, we have significant concerns regarding the impacts to the Blean Complex SAC in relation to Policy C12 and landscape impacts in relation to Policy C17. In line with good practice, we would expect the SA to be an iterative process which informs policy evolutions to that positive outcomes can be achieved for all the environmental indicators. We would therefore welcome further dialogue with your Authority to achieve this.

#### **6. Policy SS4 – Movement and transportation strategy for the district**

In our response to the previous Regulation 18 draft Local Plan (2022) consultation, we expressed concerns regarding the potential for direct and indirect impacts on designated nature conservation sites from the proposal to create a new 'outer' ring road around Canterbury and associated link roads. We note that these proposals have now been removed from Policy SS4, and as we were previously unable to support this policy their removal is welcome.

Policy SS4 now favours a comprehensive programme of sustainable transport measures to facilitate a shift to low-carbon and active travel journeys, which is strongly welcomed.

The map on p.13 of the Canterbury District Transport Strategy indicates a number of proposed new cycle routes, some of which appear to pass through or near to designated sites, including the Blean Complex SAC, Church Woods SSSI, West Blean and Thornden Woods SSSI and Ellenden Woods SSSI. In addition, the concept masterplan for Policy C12 Land north of the University of Kent indicates opportunities to improve cycling and walking access, including links to the Blean SAC.

We advise that any new planned transport infrastructure, including active travel routes, which could have a direct or indirect impact on nationally or internationally protected sites will need to ensure that any impacts are avoided or fully mitigated as a result of Policy SS4.

To ensure that these mitigation measures are fully integrated into this policy we advise that an additional criterion be included within this policy which makes an explicit reference to the avoidance of negative effects to biodiversity assets, priority habitats and species and designated sites.

Furthermore, this criterion should also seek to maximise opportunities for enhancements to biodiversity assets and designated sites through well-planned multi-functional green infrastructure as part of any existing and new active travel infrastructure.

## **Annex 2: Chapter 2 – Canterbury**

### **1. Canterbury Vision**

The achievement of a high-quality public realm, including new green infrastructure provision, is a particularly welcome part of this vision.

### **2. Policy C1 – Canterbury City Centre Strategy**

We support this policy which ensures the protection and enhancement of existing open spaces and green and blue infrastructure assets, as well as the requirement for new development to provide accessible multifunctional open spaces, and green corridors to connect habitats and improve ecology.

### **3. Policy C2 – 43 to 45 St George's Place**

We support this policy which requirements for the provision of high-quality public realm and landscaping as well as a green and blue infrastructure strategy.

We advise that the policy could be strengthened by reference to the use of Green Infrastructure Framework standards within the strategy to set out how the development will deliver the 15 green infrastructure principles and the green infrastructure standards. This should include how the green infrastructure will be managed, maintained and monitored for a minimum of 30 years.

We recommend strengthening these policies by replacing the word 'should' with 'shall' to read:

'The green and blue infrastructure strategy for the site **shall**...'

The advice above applies equally to the following policies: C3, C6, C7, C9, C10, C13, C14, C15, C16, C17, C19, W4, W5, W6, W7, HB4, HB5, HB6, HB8, HB9, R2, R3, R4, R5, R6, R7, R8, R9, R19, R13, R14, R15, R16, R17, R18.

### **4. Policy C3 – Land north of Canterbury West Station**

As with Policy C2, we support this policy but advise strengthening the wording of the policy requirement for green and blue infrastructure.

### **5. Policy C5 - Canterbury Urban Area**

Under policy requirement C5 (4) of this policy reference is made to the Canterbury Business Park. As this proposed allocation is in a rural location some distance from Canterbury Urban Area, and wholly within the Kent Downs National Landscape, we do not consider it appropriate for it to be included within this policy.

### **6. South West Canterbury Strategic Development Area**

#### **A) Policy C6 - Land at Merton Park – 2,250 dwellings**

As in our previous response to the Regulation 18 draft Local Plan (2022), we note that this is one of the largest strategic housing allocations in the plan and proposes a significant expansion of Canterbury. However, there are no triggers for specific concerns in relation to internationally and nationally designated nature conservation sites, nor are there any significant concerns for nationally designated landscapes. The SA indicates significant negative effects for biodiversity, geology, landscape, water and land use (as the site is a greenfield over 3ha) and minor negative effects for

air quality.

We welcome the policy requirements to address the negative effects to biodiversity and landscape through in criteria C6 (3) b), d) – m).

However, following our comment on the protection of BMV soils under Policy SS1, we recommend the addition of a reference within these criteria to a new development strategy policy or development management policy requirement which provides guidance as to what will be expected if the loss of BMV soils cannot be avoided.

We have the following recommendation regarding policy requirement C6 (3) c):

Whilst Natural England supports the principle of assessing sites for their potential to be functionally linked for golden plover, we would highlight that there are a number of other qualifying features associated with Special Protection Areas (SPAs) and Ramsar sites within the plan's boundaries, that may also use land outside of the designated site's boundaries.

As such, we would recommend that the specific reference to golden plover is removed, so that the policy wording instead recognises the potential for other species to use functionally linked land as well. We would advise that the removal of golden plover will be a more accurate reflection of the policy wording within DS17.

Natural England would advise that this amendment should apply equally to the following policies:

- Policy C7 – Land to the north of Hollow Lane
- Policy C12 – Land north of the University of Kent
- Policy W4 – Land at Brooklands Farm
- Policy W5 – Land south of Thanet Way
- Policy HB4 – Land to the west of Thornden Wood Road
- Policy HB8 – Altira

### ***B) Policy C7 – Land to the north of Hollow Lane – 800 dwellings***

As we noted in our response to the previous Regulation 18 draft Local Plan (2022) we note that although the far western tip of the site lies adjacent to the Larkey Valley Woods SSSI, the policy's concept masterplan shows a landscape buffer area of open space next to the SSSI. This is supported by the policy requirements C7 (3) f) and g) to both ensure protection of the SSSI but also the opportunity for the creation of a green corridor, which is welcomed.

Although we support policy requirement C7 (2) b) its aims could be further supported by including an access to greenspace requirement within policy requirement C7 (3).

### ***C) Policy C9 – Milton Manor House***

We support the policy provisions to protect Larkey Valley Wood SSSI and to protect and enhance areas of ancient woodland and priority habitat and species, as well as enhancing the landscape and green infrastructure, subject to our previous comments in this regard.

### ***D) Policy C12 – Land north of University of Kent – mixed use freestanding settlement including 2000 dwellings***

This policy is a strategic allocation for a proposed new garden settlement. It is located in close proximity to internationally and nationally designated sites including the Blean Complex Special Area of Conservation (SAC), West Blean and Thornden Woods Site of Special Scientific Interest (SSSI) and Church Woods SSSI as well as encompassing areas of priority and irreplaceable



habitats including ancient woodland. The SA assessment of the allocation highlights significant negative effects for biodiversity, landscape and water, as well as a mix of significant positive and negative effects for land use, whilst acknowledging that the extent and magnitude of such effects is uncertain at this stage. The site is large and located in open countryside and would therefore result in a major change in landscape character. The SA assesses the allocation as having significant negative effects for landscape in this location, which is also a green gap. It is acknowledged that any landscape effect would need to be minimised and mitigated for as far as possible and recommends that strategic scale landscape mitigation will be required.

We note the recognition in the SA of the potential for harm to the nearby designated sites as well as the direct loss of priority deciduous woodland and irreplaceable habitats including ancient woodland within the site.

Whilst we broadly welcome the policy provisions which seek to minimise these impacts within policy requirements C12 (3) a) - m), including policy requirement (e) that '*no residential development shall take place within 400m of the Blean Complex SAC*', we advise the following amendments would help to strengthen this policy overall:

- C12 (2) a): '*Be developed with garden city principles and be in accordance with a detailed landscape-led masterplan and design code...*'
- C12 (3) Landscape and green infrastructure. '*The green and blue infrastructure strategy for the site shall (instead of 'should' as advised above)*
- C12 (3) to include an additional requirement which states the green and blue infrastructure strategy 'follow the principles as set out in Natural England's Green Infrastructure Framework standards, including how the green and blue infrastructure will be managed, maintained and monitored for a minimum of 30 years'.
- C12 (3) c): '*Assess the site's potential to be functional linked land for species*'
- C12 (3) d): This could be strengthened by a requirement to specify a minimum percentage increase in tree **canopy** cover. The Urban Canopy Tree Cover standard would be a useful basis for such a requirement and its monitoring and evaluation.
- C12 (3) h): As currently written this would appear to be contrary to the NPPF paragraphs 185 b) and 186 c). As set out in paragraph 186 a) of the NPPF we advise that further detailed consideration of the mitigation hierarchy needs to be given in respect of this policy requirement.
- C12 (3) j): Amend the last sentence to '*Expand and enhance fragmented areas of woodland to enhance and improve connectivity to the Blean Complex in line with Policy DS23.*'

Furthermore, we advise that the concept masterplan currently lacks sufficient detail, and we recommend that a more detailed landscape-led masterplan be produced, perhaps in the form of a Supplementary Planning Document (SPD) to provide greater confidence that these enhancements will be delivered in the optimum way. As part of this masterplan, we would like to see additional mitigation measures.

We would support a landscape-led masterplan approach which has the potential to enhance the wider landscapes functional ecological connectivity, and which would be beneficial to the internationally and nationally designated sites, priority habitats and species to support nature recovery.

For example, as well as the green and blue infrastructure connectivity proposed along the north-

south axis to align with the SuDS mitigation, and the additional green links identified on the east-west axis, there may be further opportunities for the creation of circular green infrastructure routes within the site to provide additional accessible and localised walking and cycling opportunities. Not only would this help to avoid and mitigate any potential future recreational pressures to the designated sites, but these could also act to further the conservation objectives of the Blean Complex SAC and Policy DS23.

We recommend that accessible and attractive areas for dog-walkers as well as designated areas for letting dogs off their leads be provided within the large new areas of open spaces.

We also recommend that the design of additional walking and cycling routes should create opportunities to protect and enhance habitats as part of any green infrastructure routes. Further details need to be provided on the potential direct and indirect impacts of any new active transport infrastructure, and how these are to be avoided and minimised. For instance, consideration needs to be given to such things as the avoidance of the introduction of lighting, the utilisation of sensitive surfacing material and the provision of habitat strips of sufficient width to act both as buffers to the more sensitive habitats as well as providing a pleasant environment for users.

A more detailed masterplan could also provide further detail on the locations of where biodiversity interest from watercourses, neutral grassland, heathland, deciduous woodland and BMV soils is to be conserved and enhanced, together with more detail on the locations of proposals to expand and enhance fragmented areas of woodland and introduce woodland buffering zones.

Whilst we acknowledge that recreational pressure is not currently identified as a threat for the Blean Complex SAC, we advise that the Council follow a precautionary approach. We understand that work is ongoing to assess the potential air quality impacts on the Blean Complex SAC and that whilst this assessment is currently unavailable further information will be forthcoming following the finalisation of transport modelling work. We have further comments on this topic in our response to the Habitats Regulations Assessment (HRA) later in this letter.

### ***E) Policy C17 – Land at Canterbury Business Park – 22ha (Strategic employment)***

In our comments to the previous Regulation 18 draft Local Plan in 2022, Natural England had recommended the removal of this policy, and we note that it remains in the current draft plan. We reiterate our previous comments and advise there is potentially for significant landscape impacts from this Strategic employment allocation which lies in a rural location and wholly within the Kent Downs National Landscape (formerly AONB).

#### ***i) National Planning Policy Framework (NPPF) 2023***

We advise that your Authority needs to demonstrate that it meets the NPPF policy requirements for development within the designated landscapes to fully justify the inclusion of this policy within the plan, including paragraphs 182 and 183.

*NPPF para 182: 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues' and goes on to specify that 'The scale and extent of development within all these designated areas should be limited.'*

This strategic employment allocation may represent major development and, as such, we've identified a risk that the policy may not meet the major development tests as set out in NPPF paragraph 183 which states that:

*'When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development<sup>64</sup> other than in*

*exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

*a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*

*b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*

*c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'*

Footnote 64 states that *'For the purposes of paragraphs 182 and 183, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.'*

Whilst we acknowledge NPPF Paragraph 183 applies to the consideration of applications for development, we advise that these considerations will need to be addressed at the Local Plan making stage in order for the plan to meet the tests of soundness. We understand that the Council has been unable to find alternative locations for this allocation, we advise that further justification for the scale and type of the allocation at this location is likely to be required.

## **ii) Consistency with Local Plan policies**

This allocation appears to be contrary to district wide and other policies within the draft Local Plan.

Policy DS18 – Habitats and landscapes of national importance states that *'Proposals for major developments and proposals which conflict with the objective to conserve and enhance the Kent Downs Area of Outstanding Natural Beauty (AONB), or that endanger tranquillity, will not be permitted except in exceptional circumstances'*. We advise that there may be insufficient evidence to demonstrate exceptional circumstances for an allocation of this scale and nature in this location in the designated landscape.

Policy DS18 also states that in *'considering proposals for development within the AONB, or its setting, the emphasis should be on proposals that are sustainably and appropriately located and designed to enhance and further the character of the AONB.'* Whilst we acknowledge that this allocation is in proximity to the A2 and thereby to the wider road network, which may increase its vehicular accessibility, it is however in a very rural location which is not apparently accessible by sustainable transport (see below under comments with respect to Policy R1).

Policy DS18 also requires proposals to *'not conflict with the aim of conserving and enhancing natural beauty by addressing location, scale, form, high quality design, materials and mitigation'*. We consider that Policy C17 appears to conflict with the aim of conserving and enhancing the natural beauty of the Kent Downs National Landscape.

Policy DS22 – Landscape character requires that *'the location, layout, scale and design considers the sensitivity of a particular landscape to accommodate change, and conserves and/or enhances what is special or distinctive about landscape ... This includes considering and, where appropriate, incorporating relevant Landscape Guidelines ... Kent Downs AONB Landscape'*, and goes on to say that *'the development does not have an adverse impact on important long distance views, including from vantage points, the PROW network and National Trails'* and that *'development **avoids harm to the landscape** and takes appropriate opportunities to enhance landscape character'*. It is unclear whether evidence exists to

determine whether Policy C17 is consistent with Policy DS22. We have made further comments in this regard below in relation to a Landscape and Visual Impact Assessment.

Policy R1 – Rural service centres: in relation to the nearby settlement of Bridge, this policy states that: *‘The council will seek to protect and enhance the sustainability of Rural Service Centres by... (d) supporting proposals for new community facilities and services, business or employment space and tourism facilities outside settlement boundaries, where:*

*(i) there is an identified local need for the proposal which outweighs any harm;*

*(ii) the development is well related to and would be proportionate to the scale of the existing settlement;*

*(iii) the development is appropriately accessible by sustainable transport, including by walking and cycling;’*

In relation to point (i) it appears that there is currently insufficient evidence to establish that this has been proven. We advise that this allocation appears not to comply with either points (ii) or (iii).

In our submission to the previous Regulation 18 draft Local Plan (2022) we advised that additional landscape evidence would be required to test whether a development of this type and scale could be accommodated in this location, and recommended that all allocations within in a designated landscape should be informed by a Landscape and Visual Impact Assessment (LVIA) which uses landscape character as documented in a Landscape Character Assessment (LCA) as its baseline (along with reference to specific special qualities and the relevant National Character Areas). We advised that such an LVIA would not be as detailed as one for a planning application, sufficient information e.g. on visual baseline, likely number and scale (including form, heights and massing) and key viewpoints would be required to inform our detailed advice.

We would recommend that the Council undertakes this assessment to be reviewed and inform an assessment of whether Policy C17 complies with the requirements under the NPPF and the Council’s own Local Plan policies, as set out above.

### **iii) New Landscapes Duty**

We consider that there is insufficient evidence to comply with the strengthened landscapes duty under LURA (2023) to seek to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape (KDNL). Whilst we acknowledge that in pursuit of this purpose account should be taken of the needs of rural industries and of the economic and social needs of local communities, it should be noted that particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment.

The allocation lies wholly within the Kent Downs National Landscape and in our view would adversely affect its natural beauty, by way of its nature and scale, which would result in a significant change in landscape character from rural agricultural to urban industrial. As the new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes and seeks to further the conservation and enhancement of a protected landscape, which goes beyond mitigation, we advise that your Authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose of the National Landscape.

Whilst we acknowledge that policy requirements include those in relation to sensitive and responsive landscape-led design we don’t consider these to be currently sufficient to adequately

demonstrate the avoidance and mitigation of harm to the designated landscape, nor to actively seeking to further the statutory purpose of the KDNL.

We would expect your authority to explore what is possible in addition to avoiding and mitigating the effects of this policy proposal and should be appropriate and proportionate to the type and scale of the development and its implications for the area and effectively secured.

Natural England's view is that the proposed measures should align with and help to deliver the aims and objectives of the Kent Downs AONB Management Plan 2021-2026 (or subsequent updates). We therefore recommend further engagement with the Kent Downs National Landscape Unit regarding this matter.

In conclusion, National England advise that a significant number of concerns remain with this policy, and we recommend that your Authority will need to address these in order to be compliant with the NPPF (2023) and your own draft Local Plan policies, as well as the new landscapes duty under LURA (2023), and thereby meet the Local Plan tests of soundness.

## ***F) Strategic Wetland Mitigation***

### ***Policy C20 – Land to the south of Sturry Road***

The Stodmarsh SSSI, SPA, SAC and Ramsar site are of both international and national importance for their wildlife. There are high levels of nitrogen and phosphorus being input into these sites with sound evidence that these nutrients are causing eutrophication within parts of the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site and SSSI. These nutrient inputs are currently thought to be caused mostly by wastewater from existing housing and agricultural sources, though recycling of nutrients within the lake habitats cannot be ruled out. The resulting nutrient enrichment is impacting on the Stodmarsh designated sites' protected habitats and species. There is uncertainty as to whether new housing growth will cause further deterioration of designated site condition.

One way to address this uncertainty and subsequent risk, until such a time that the condition of the Stodmarsh designated sites has improved, is for new development to achieve nutrient neutrality. Ensuring that there is not a net increase in nutrients entering the designated sites is one way of ensuring that a plan and/or project does not have an adverse effect on the integrity of the Stodmarsh designated sites.

Natural England welcomes and supports the allocation of sites for the delivery of strategic wetlands as part of your Authority's Nutrient Mitigation Strategy. Natural England also supports the use of nature-based solutions (such as wetlands) for delivering strategic nutrient mitigation within the Stour catchment.

As highlighted within Habitats Regulations Assessment – Nutrient neutrality, Natural England would advise that the [Wetland Mitigation Framework](#) should be utilised in the design and feasibility process for constructed wetlands. Additionally, further background information on constructed wetlands can be found within the '[Introduction to Freshwater Wetlands for Improving Water Quality \(JP044\)](#)' report, which was recently published by Natural England.

We are therefore supportive of this policy and the decision to specifically allocate and safeguarding land within the plan area for strategic nutrient mitigation. Our further comments on the plan's approach to nutrient neutrality and the accompanying draft Nutrient Mitigation Strategy can be found under Habitats Regulations Assessment – Nutrient neutrality.

## **Annex 3: Chapters 3 and 4 – Whitstable and Herne Bay**

As we advised in our response to the 2022 Regulation 18 draft Local Plan, we note that the scale of development proposed around these two secondary settlement centres is significantly less than that proposed around the primary centre of Canterbury, and we therefore have limited comments to make.

However, we have provided detailed comments later in this letter on the need for the Local Plan HRA to carry out further assessment work to see if any of the currently proposed coastal site allocations are likely to result in the loss functionally linked land i.e. land outside designated sites which is nonetheless critical for supporting designated site populations of mobile bird species.

We advise that depending on the likely significance of the impact it may be acceptable to defer detailed survey work (and if necessary, mitigation) to the project level although it is advised to include a requirement in relevant site allocation policies to this effect (as has been done by neighbouring Dover District Council).

Site allocation policies in these two chapters where this consideration may be relevant are as follows:

- W4 – Brooklands Farm (1,400 homes)
- W5 – Land South of Thanet Way (220 homes)
- HB4 – Land to the west of Thornden Wood Road (150 homes)
- HB8 - Altira (Business and commercial use plus 67 homes).

### **1) Policy W1 – Whitstable Town Centre Strategy**

We advise that this policy could be strengthened under policy requirement (8) by setting out and committing to meeting accessible greenspace standards, as outlines in Standard S2 of Natural England's Green Infrastructure Framework Standards. In addition, the incorporation of Natural England Nature Recovery Standard, Urban Tree Canopy Cover and Accessible Greenspace Standards would strengthen this policy requirement.

### **2) Policy W2 – Whitstable Harbour**

We welcome the policy requirements which recognise the value of the harbour for roosting birds associated with the nearby Thanet Coast and Sandwich Bay SPA and Ramsar site and ensure that these are safeguarded. We advise that reference is also made to the protection of the Swale SSSI, SPA and Ramsar sites which are in close proximity to the Harbour for their ecological value. We also recommend that Policy DS17 is cross-referenced within this policy.

However, we note that no mention is made within this policy (or within Policy DS11 Tourism Development) of the recognition of the Swale Estuary Marine Conservation Zones (MCZ) which lies adjacent to the Whitstable coastline.

The Marine and Coastal Access Act (2009) [Marine and Coastal Access Act 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2009/23/section/1) states that:

*'Every public authority to which this section applies must (so far as is consistent with their proper exercise) —*

- *(a) exercise its functions in the manner which the authority considers best furthers the conservation objectives stated for the MCZ;*

- *(b) where it is not possible to exercise its functions in a manner which furthers those objectives, exercise them in the manner which the authority considers least hinders the achievement of those objectives.'*

We would, therefore, advise that your Authority will need to address this in the Local Plan. We have been unable to find any assessment of effects to MCZs in the Local Plan Evidence Library documents, for example, and recommend that further work might be necessary to address this.

We recommend that Policy W2 make mention of duties regarding the MCZ and references the Coastal Concordat [A coastal concordat for England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441222/a_coastal_concordat_for_england.pdf) as the Marine Management Organisation (MMO) will provide marine licences for activities in MCZs.

However, it is noted that policy provision for development that affects MCZs is made within Policy DS18, which is welcome.

In addition, we advise that Policy W2 could be strengthened by the inclusion of an additional policy requirement which states that: *'any proposals for development in Whitstable Harbour should meet the requirements within Policies DS17 and DS18'*.

### **3) Policy W3 – Whitstable Urban Area**

We welcome the provision within policy requirement 8 for the protection of the Swale, Thanet Coast and Tankerton Slopes SSSIs. For completeness we advise that reference is also made to the Swale SPA and Ramsar and the Thanet Coast and Sandwich Bay SPA and Ramsar for their ecological value.

Furthermore, we advise that policy requirement (8) could be strengthened by incorporation of a reference to Natural England's Green Infrastructure Framework standards including the Urban Nature Recovery Standard, Urban Tree Canopy Cover and Accessible Greenspace Standards.

## **Annex 4: Chapter 5 – Rural**

### **1) Policy R1 – Rural service centres**

We recommend that an additional requirement is added under policy requirement (1) of Policy R1 which ensures that to development meets all the requirements of all the district-wide and development management policies relevant to the protection and enhancement of biodiversity and landscape including Policies DS17, DS18, DS21, DS22, DS23, DM16, DM17 and DM18.

### **2) Policy R2 - Great Pett Farmyard – 13 dwellings**

We support this policy which requires a range of landscape and design measures to reduce any negative effects on the Kent Downs National Landscape through the policy requirements to provide a sensitive farmstead-style development in keeping with the character of the historic farmstead to the north and informed by the Kent Downs AONB Farmstead Guidance, as well as incorporating opportunities for landscape and biodiversity enhancements as guided by the Kent Downs AONB Management Plan (2021-2026).

### **3) Policies R3 – Land at Ashford Road (east) and R4 – Land at Ashford Road (west)**

We note that these allocations are in the setting of the Kent Downs National Landscape, and we would therefore recommend the policy requirement (2) of each is expanded to reflect this, as follows:

R3 (2) : *'The design and layout of the site should: (a) Provide development that reflects the design, scale and massing of adjacent development, the edge of settlement location and is responsive to its setting within the Kent Downs National Landscape.'*

### **4) Policy R5 – Bread and Cheese Field and Policy R6 – Land at Hersden**

The Policy R5 allocation is within 400m and the Policy R6 allocation is within 500m of the Stodmarsh SAC, SPA and Ramsar sites. We note that there are policy provisions to mitigate any potential urbanisation, recreational disturbance and water quality impacts to the designated sites including the provision of a landscape buffer in the form of natural and semi-natural open space to the south of the site, as well as the requirement to provide sustainable urban drainage, which are welcome.

### **5) Policy R11 – Local service centres**

We recommend that an additional requirement is added under policy requirement (1) of Policy R11 which ensures that to development meets all the requirements of all the district-wide and development management policies relevant to the protection and enhancement of biodiversity and landscape including Policies DS17, DS18, DS21, DS22, DS23, DM16, DM17 and DM18.

### **6) Policy R13 – Land adjacent to Valley Road, Barham – 20 new dwellings**

We have concerns regarding the potential for harm to landscape character and as well as negative visual impacts to this policy. The proposed development area extends up the valley to include an area which is visually prominent from the Valley Road, and we therefore recommend that the wording under policy requirement R13 (3) c) be strengthened by removing the phrase *'where possible'*.

### **7) Policy R17 – Broad Oak Reservoir and Country Park**

As we previously advised we welcome the provision of this policy to help guide this significant



infrastructure development. We assume it has been developed in discussion with South East Water (SEW) and is based on their most recent plans. We are still working closely with SEW on a number of issues in relation to this water supply option so plans may change further before this draft plan is adopted. We would like to maintain a dialogue with you on this as the Broad Oak plans and Local Plan continue to develop.

We note that the SA assesses Policy R17 for significant positives and minor negatives for biodiversity through the protection of a large amount of habitat and creating habitat, whilst noting that this may be temporary disruption during construction.

However, we advise that whilst we support the policy criteria R17 (3) in relation to landscape and green infrastructure, we recommend that the wording be strengthened as follows:

*'(f) Ensure that any development avoids impacts to and provides a substantial buffer to the West Blean and Thornden Woods Site of Special Scientific Interest, ancient woodland and Little Hall and Kemberland Woods and Pasture Local Wildlife Site' and*

*'(g) Ensure that loss and/or harm to any priority habitat is avoided and fully mitigated in line with the mitigation hierarchy'*

*'(h) Provide habitat, pollinator and ecological connectivity across the site and with the surrounding landscape, including with fragmented woodland and priority habitats **in line with Policy DS23**'.*

We would welcome the opportunity to provide further comments on this allocation policy as more detailed proposals emerge.

#### **8) Policy R19 – Countryside**

We recommend that an additional requirement is added under policy requirement (1) of Policy R19 which ensures that to development meets all the requirements of all the district-wide and development management policies relevant to the protection and enhancement of biodiversity and landscape including Policies DS17, DS18, DS21, DS22, DS23, DM16, DM17 and DM18

## **Annex 5: Chapters 6 and 7 – District-wide strategic and Development management policies**

### **A. Chapter 6 – District-wide strategic policies**

#### **1) Policy DS3 – Estate Regeneration**

This policy affords a good opportunity to try and secure the retrofitting of green infrastructure into existing residential areas. We, therefore, recommend that an additional policy requirement be included which state something along the lines of:

*‘Proposals will provide accessible multifunctional open space and green and blue infrastructure which is informed by Natural England’s Green Infrastructure Framework standards’*

#### **2) Policy DS4 - Rural Housing**

We recommend that an additional requirement is added under policy requirement (1) of Policy DS4 which ensures that to development meets all the requirements of all the district-wide and development management policies relevant to the protection and enhancement of biodiversity and landscape including Policies DS17, DS18, DS21, DS22, DS23, DM16, DM17 and DM18

#### **3) Policy DS6 - Sustainable Design**

We support the inclusion of this policy, in particular the recognition of the use of nature-based solutions and the contribution green and blue infrastructure can make towards mitigating and adapting to climate change.

We recommend that the Council make use of Natural England’s ‘Green Infrastructure Planning and Design Guide’ in the development of any design codes, guides and additional guidance. The purpose of the Green Infrastructure Planning and Design Guide is to provide evidence based practical guidance on how to plan and design good green infrastructure. It complements the National Model Design Code and National Design Guide and can be used to help planners and designers develop local design guides and codes with multifunctional green infrastructure at the heart.

This will help to inspire the creation of healthier, nature-rich, climate resilient and thriving places to live, learn, work and play.

Furthermore, we support the pursuit of water efficiency within the district and the inclusion of the proposed wording within policy requirement DS6 (5). Given the interrelation between water usage and subsequent nutrient budgets, Natural England would highlight that the delivery of future water efficient development is one way of reducing the total amount of mitigation required to avoid an adverse effect on the Stodmarsh designated sites. Additionally, as the effects of climate change continues to occur, water scarcity – and the need for water efficient development – is likely to become an ever increasingly important issue to consider.

#### **4) Policy DS7 – Infrastructure Delivery**

We note that this policy doesn’t seem to include reference to green infrastructure delivery (it seems to focus on grey infrastructure) so we recommend that the Policy is amended to include green and grey infrastructure.

## **5) Policy DS8 - Business and Employment Areas**

We note that a number of the policy proposals are situated within or in close proximity to designated sites, including DS8 (h) and (i) which are within the Kent Downs National Landscape, (g) is in close proximity to the Stodmarsh sites. We, therefore, recommend that an additional policy criterion be included which states that '*proposals should meet the requirements of district-wide policies DS17, DS18, DS20 and DS22*' to ensure that any harm to the designated sites is avoided and fully mitigated.

## **6) Policy DS11 - Tourism Development**

This policy includes criterion DS11 (7) for proposals for Marina provision, which include requirements (b) and (c) in relation to international and nationally designated sites for nature conservation, which is welcome.

However, as we advised in our comments under Policy W2, we recommend that recognition of and policy protection for Marine Conservation Zones (MCZ) needs to be made in this policy to ensure that impacts to these sites are also addressed within the policy.

We recommend that Policy DS11 be strengthened by an additional requirement which states that '*proposals for a Marina should meet the requirements of Policies DS17 and DS18*'.

## **7) Policy DS12 - Rural Economy**

We support Policy DS12 and note that it includes a policy criterion DS12 (3) which seeks to protect the best and most versatile land (BMV). However, as this is the only mention of BMV in the Plan we have advised under our comments on SS1 and DS21 that more robust policy provision needs to be made in relation to the protection of soils.

However, we feel that this policy could be strengthened by the inclusion of an additional requirement which states that '*where in the countryside development complies with the requirements of Policy DS17, DS18 and DS19*', to ensure that impacts to designated sites for nature conservation are addressed within this policy.

Furthermore, we recommend that the wording in policy criterion (2) (c) be amended to reflect the mitigation hierarchy to make it clear that adverse impacts upon the landscape should be avoided in the first instance.

## **8) Policy DS14 - Active and Sustainable Travel**

We broadly support the principle of this policy which sets requirements for new active and sustainable travel routes. However, given the importance of good-quality green and blue infrastructure provision in encouraging people to utilise active and sustainable travel methods, we advise that a more explicit reference to the contribution of green infrastructure is made within Policy DS14 as a method of improving travel routes. We, therefore, recommend the inclusion of an additional policy criterion which states something along the lines of '*new active travel networks will maximise opportunities to enhance green and blue infrastructure, in accordance with Natural England's Green Infrastructure Framework standards*'.

## **9) Policy DS16 - Air Quality**

Whilst we support the inclusion of a policy relating to air quality, it appears that the majority of requirements are relative to air quality impacts upon humans. Given the impact that increases in air pollutants such as Nitrogen Oxides (NOx), ammonia (NH<sub>3</sub>), nitrogen deposition and acid deposition

can have on habitats and species, we advise that reference is made to avoiding air quality impacts upon ecological receptors as well as human. We, therefore, recommend additional policy wording to policy criterion DS16 (2), which states that;

*'Proposals for major development within, or which would impact upon, designated Air Quality Management Areas **and designated nature conservation sites** will also be required to undertake an air quality assessment, in accordance with the council's air quality guidance. The assessment should: (a) Consider the development in the context of the cumulative effects on air quality from other proposed developments in the vicinity; and (b) Consider the impact of the development on any sensitive receptors **including ecological receptor sites which may be sensitive to air quality impacts**; and (c) Demonstrate how any identified impacts will be mitigated. The council will use appropriate mechanisms to secure the delivery of any identified mitigation measures'*.

### **10 ) Policy DS17 – Habitats of international importance**

Policy DS17 criterion (1) and (5) appear to contradict each other. DS17 (1) says that projects that may have an adverse effect on the integrity of a site 'will not be permitted'. However, DS17(5) says where the Council cannot conclude there will be no adverse effect on the integrity, the plan or project will be refused unless the tests of no alternative solutions and IROPI are met. We recommend that the policy wording be amended to make it consistent with the NPPF and Habitats Regulations. Natural England supports the principle in paragraph 6.49 and the clear recognition of the need to avoid impacts in the first instance (in line with the mitigation hierarchy). However, we highlight that the mitigation hierarchy is to '*avoid, mitigate, and finally, compensate for*' rather than '*avoid, minimise, and then mitigate*' would ensure that this policy is in line with the NPPF paragraph 186 a).

We would also advise that the wording is changed from '*where appropriate*' is changed to '*where necessary*', in order to accurately reflect the need for the mitigation hierarchy to be considered where there is a potential impact to a designated site. Currently, it is our view that the use of the phrase 'where appropriate' could be interpreted as indicating that there are circumstances wherein the mitigation hierarchy does not need to be applied.

In addition, we recommend the following amendments:

DS17 (2): *Where a plan or projects's **likely significant** effects on a SAC, SPA or Ramsar site,,,etc'* to ensure that it more accurately reflects Regulation 63 of the Habitats Regulations.

DS17 (3): That the word '*significant*' should be removed from this policy requirement in order to accurately reflect the way in which adverse effects are considered as part of the Habitats Regulations.

DS17 (5): We would highlight that the reference to Regulation 62 appears to be an error, and we would advise that reference should be made to Regulation 64 instead.

DS17 (6): *'Where there is a potential for a site to be functionally linked land **for species associated with a SPA, SAC and/or Ramsar, an assessment of the potential value of the site must be undertaken**'.*

Natural England supports the clear reference to the mitigation hierarchy. However, we would suggest that this policy requirement could be clarified by detailing the three steps of the mitigation hierarchy i.e., avoid (for example, through locating on an alternative site which avoid harmful impacts), adequately mitigated, or, as a last resort, compensated for.

We would also recommend that this policy requirement could be strengthened through the provision of further detail outlining how an assessment of the potential value of the site should be undertaken.

Furthermore, should a site be determined as potentially affecting an area of FLL, Natural England would advise that at a minimum, a habitat suitability assessment should be undertaken in order to determine its suitability as FLL. If a habitat suitability assessment cannot rule out its suitability as FLL, we would then advise that a desk-based assessment should be undertaken. Should a desk-based assessment determine that the site is likely to serve as FLL, we would advise that – in the absence of suitable and robust data – that at least two years of surveys, twice a month (undertaken during the appropriate time of year, and with consideration of the ecological behaviour of the target species and the ways in which they use sites outside of the designated sites boundaries) should be undertaken.

DS17 (7): Whilst Natural England supports the wording of this policy in principle, we would advise that large developments in close proximity to the Thanet Coast and Sandwich Bay, and The Swale designated sites may also require mitigation above and beyond a financial contribution to the agreed strategic solution. Whilst a decision as to whether this is required or not should be made on a case-by-case basis, we would advise that the possible need for additional on-site measures should be included within the policy wording.

DS17 (8): Natural England welcomes and supports the policy wording within policy requirement (8), which ensures that any proposals that are likely to have a significant effect on the Stodmarsh designated sites, will ensure that nutrient neutrality is achieved (thus ensuring that there will not be an adverse effect on the integrity of the sites arising from a net increase in nutrients). However, we would recommend that the wording of this policy criteria should be amended to better reflect our advice that the need for development other than residential development to demonstrate nutrient neutrality, should be assessed on a case-by-case basis instead. It is our advice that the current wording could imply that all development (including commercial/industrial etc) that connects to the mains foul water network will need to demonstrate nutrient neutrality.

We would recommend that applicants ensure that they use the most up-to-date version of the published nutrient neutrality guidance and calculator in order to ensure that any potential impacts are robustly considered.

Natural England supports the policy requirements outlined within 8 (a) – 8 (c) which seeks to ensure that on-site mitigation is delivered as part of a proposed development and to ensure that any off-site mitigation requirements are minimised as far as practicable; thus, ensuring that constrained resources within the catchment are safeguarded where necessary. Similarly, we support the tiered approach to mitigation requirements, and recognise the pragmatic and proportionate approach that has been taken.

We would recommend that when assessing the suitability of Sustainable Drainage Systems (SuDS), that the current best practice guidance at the time should be used. Currently, new developments should use the following guidance:

- [Using SuDS to reduce nitrogen in surface water runoff \(C815F\).](#)
- [Using SuDS to reduce phosphorus in surface water runoff \(C808F\).](#)

### **11) Policy DS18 - Habitats and Landscapes of National Importance**

We broadly support this policy but recommend that the policy be separated into two to enable a separate policy which relates to Kent Downs National Landscape to better reflect the provisions in in the strengthened landscape duty under Section 245 of the Levelling Up and Regeneration Act (LURA) 2023.

## ***New landscape duty***

We acknowledge that during the preparation of the Regulation 18 draft Local Plan (2024) Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act (LURA) 2023 has come into force which places a new duty on relevant authorities in exercising or performing their functions in relation to, or so as to affect, land in a National Park, the Broads or an Area of Outstanding Natural Beauty ('National Landscape') in England, to seek to further the statutory purposes of the area. The duty applies to local planning authorities and other decision makers in taking planning decisions on development and infrastructure proposals, as well as to other public bodies and statutory undertakers. It is, therefore, relevant to the Local Plan making process.

It is anticipated that the government will provide guidance on how the duty should be applied in due course. In the meantime, and without prejudicing that guidance, Natural England advises that:

- the duty to 'seek to further' is an active duty, not a passive one. Any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape (A National Park, the Broads, or a National Landscape) can be furthered;
- The new duty underlines the importance of avoiding harm to the statutory purposes of protected landscapes but also to seek to further the conservation and enhancement of a protected landscape. That goes beyond mitigation and like for like measures and replacement. A relevant authority must be able to demonstrate with reasoned evidence what measures can be taken to further the statutory purpose;
- The proposed measures to further the statutory purposes of a protected landscape, should explore what is possible in addition to avoiding and mitigating the effects of the development, and should be appropriate and proportionate to the type and scale of the development and its implications for the area and effectively secured. Natural England's view is that the proposed measures should align with and help to deliver the aims and objectives of the designated landscape's statutory management plan. We therefore recommend engagement with the Kent Downs National Landscape Unit regarding this matter.

We advise that the strengthened landscapes duty needs to be considered further throughout the plan and addressed particularly in relation to the following policies:

- Policy SS2 - Sustainable Design Strategy
- Policy SS3 – Development Strategy
- Policy C17 - Land at Canterbury Business Park
- Policy R1 – Rural Service Centres
- Policy R2 – Great Pett Farmyard
- Policy R11 – Local Service Centres
- Policy R13 – Land adjacent to Valley Road, Barham
- Policy R19 – Countryside
- Policy DS4 – Rural Housing
- Policy DS6 – Sustainable Design Policy
- Policy DS12 - Rural Economy
- Policies DS18 – Habitats and landscapes of national importance
- Policy DS22 - Landscape Character.

Currently, the policy appears to allow proposals within the National Landscape so long as *'they do not conflict with the aim of conserving and enhancing natural beauty'*. However, paragraph 182 of the NPPF states that the scale and extent of development should be limited. We therefore recommend that this policy is reviewed to provide more clarity on what is and is not acceptable. We also recommend that your authority defines what is meant by major development in line with the NPPF, to set out the circumstances in which major development can be exceptionally permitted

within the National Landscape.

We suggest the following wording be added to this policy criterion (2):

*'Development proposals within the National Landscape should be limited in their scale and extent'.*

We also recommend that, in order for the policy requirements to better reflect the provisions of the strengthened landscapes duty in LURA (2023) that the last phrase of this criterion be amended from *'have regard to'* to ***'seek to further the purpose of the National Landscape as detailed in the Kent Downs AONB Management Plan and its supporting guidance'***.

Furthermore, whilst we note that under policy requirements 4 and 5 there is provision for developments which might impact Marine Conservation Zones, which we support, as we've previously mentioned we have been unable to find in the Local Plan Evidence Library any assessment of impacts to Marine Conservation Zones (MCZs). As both the Swale Estuary MCZ and Thanet Coast MCZ lie to the north of the plan area we would expect an assessment of impacts to both these nationally designated conservation areas.

### **12) Policy DS19 - Habitats, landscapes and sites of local importance**

We support this policy but notice that although there is a focus on a few urban green infrastructure spaces, there is currently no policy relating to green infrastructure as a whole. We advise that the policy could be expanded to incorporate green and blue infrastructure, which references Natural England's Green Infrastructure Framework standards.

### **13) Policy DS20 - Flood Risk and Sustainable Drainage**

Natural England strongly supports the inclusion of this policy and in particular the requirement for all proposals to incorporate Sustainable Draining Systems (SuDS). We are pleased to see that recognition has been given to more natural solutions that can incorporate biodiversity and suggest that some examples are provided for clarity (e.g. swales, wetlands).

### **14) Policy DS21 - Supporting biodiversity recovery**

Natural England strongly supports this policy going further than the required 10% Biodiversity Net Gain (BNG), by expecting a minimum of 20% from all development proposals that are not otherwise exempt. However, we note at 5.8.13 of the SA that although the Council has undertaken a viability assessment which it considers demonstrates that this level of BNG is viable at the plan level, which is welcome, that some uncertainty remains regarding the capacity of some policies to meet 20% net gain requirements. We advise that additional policy wording be included within those policies to which this applies to clarify what would be expected to be delivered should the minimum of 20% BNG not be achievable.

We are pleased to see that reference has been made to avoiding or minimising biodiversity impacts in the first instance, before following the net gain hierarchy of onsite provision, offsite provision and the use of statutory credits.

We do however recommend that reference is made to the Statutory Biodiversity Metric rather than the *'latest Natural England biodiversity metric'*, to fall in line with national expectations. Furthermore, whilst this policy includes significant policy wording on green infrastructure it doesn't however seem to set targets or refer to the Green Infrastructure Framework or the accompanying standards. It would be great if we could ensure that the Plan embeds Natural England's Green Infrastructure Framework and a commitment to the standards within the policy wording.

## Soils

Further to our comments under SS1 and DS12 regarding policy protection of best and most versatile land (BMV - Grades 1, 2 and 3a in the Agricultural Land Classification (ALC)), we advise that the importance of soils needs to be more fully recognised in the plan. Given the crucial role healthy soils play in both carbon sequestration and supporting biodiversity recovery, we advise that mention of this should be made within this policy and within Policy DS25 which includes requirements on the protection and enhancement of soil health as well as what will be expected from proposals in cases where development may affect soils and where development of best and most versatile land cannot be avoided.

We, therefore, recommend that in order to be consistent with the NPPF (2023) paragraph 180. a) additional policy requirements be included which state something along the line of:

- *'Due to the importance of soils for biodiversity and carbon storage, soils will be protected and enhanced by development avoiding the best and most versatile agricultural land or other valued soils, soil disturbance, compaction and erosion. Development must not result in soil pollution or contamination.'*
- *'Where development of potential best and most versatile agricultural land cannot be avoided, detailed surveys should be undertaken to determine the actual agricultural land classification (ALC). The proposal should then prioritise the use of lower grade agricultural land, preserving that of higher quality.'*

### **15) Policy DS22 - Landscape Character**

We broadly support this policy but recommend that an additional policy requirement be included under criterion DS22 (2) which states that:

*'Harmful impacts to the Kent Downs National Landscape are avoided'.*

Whilst we recognise, the policy provision under Policy DS18 in regard of the designated landscape we recommend that reference to *'furthering the purpose of the Kent Downs National Landscape'* is made within this policy in line with Section 245 of the LURA (2023).

### **16) Policy DS23 - The Blean Woodland Complex**

We are broadly supportive of this policy which seeks to restore, enhance, expand and connect the woodland habitat that forms part of the Blean Complex of designated sites.

Given the intent of this policy we advise that Policy C12 – University of Kent and Policy R17 – Broadoak Reservoir may both require additional criteria to highlight the opportunities within these policies to deliver the objective of Policy DS23.

Furthermore, as we identified in our previous response to the 2022 Regulation 18 Local Plan there is a risk that policy requirement DS23 (3) is inconsistent with other policies in the Draft Plan, including Policies DS17 and DS18, as well as the level of protection provided by the NPPF. Policy Requirement (3) simply states that "proposals for development that would result in the loss, deterioration or damage to the character, ecology and integrity of the Blean Complex **will be refused** (our emphasis)" with no caveats around the need for or benefits of the development. We advise that these inconsistencies could lead to ambiguities in how the plan as a whole is interpreted.

### **17) Policy DS24 - Publicly accessible open space and sports**

We broadly support this policy which sets a target for the delivery of 'semi natural and natural space'



as 4 hectares per 1,000 people and 'amenity green space and green corridors' of 2.25 hectares per 1,000 people. The policy also includes some accessibility distance criteria which is welcome.

We recommend that the Council adopt Natural England's Green Infrastructure Framework standards which provide targets for quantity but also distance for residents to access as part of the Local Plan.

### **18) Policy DS25 - Renewable Energy and Carbon Sequestration**

Natural England supports this policy in encouraging a move to low carbon energy, given the contribution that energy generation makes to climate change.

However, we recommend additional policy requirements to ensure the opportunities for carbon sequestration are maximised, and which are in line with our recommendations regarding the soils section in Policy DS21. Given the important contribution that soils make, as well as trees, woodland and hedgerows, we therefore recommend wording something along the lines of:

- *'Development proposals will be required to protect existing carbon sinks and stores and take opportunities to provide nature-based solutions for carbon capture and sequestration' in order to ensure that impacts to soils, biodiversity and landscape are avoided.*
- *'Development proposals will be required to protect soils, trees, woodland and hedgerows'.*
- *'Development proposals will be required to take opportunities to improve soil health and minimise disturbance to soils in order to protect soil biodiversity and carbon storage in line with Policy DS21'.*

## **B. Chapter 7 - Development Management Policies**

### **1) Policy DM1 - Conversion of Existing Rural Buildings**

We recommend that Policy DM1 references the need to ensure that the scheme does not have an adverse impact upon designated sites for nature conservation and landscape, as well as impacts on wider biodiversity, for example, bats, which often utilise these buildings.

We advise that agricultural conversions that lie within the Stodmarsh Catchment will need to demonstrate nutrient neutrality.

### **2) Policy DM2 - Residential Garden Land**

We recommend that Policy DM2 references the need to ensure that the development does not have an adverse impact upon designated sites. This is particularly relevant for residential garden land developments that lie within the Stodmarsh Catchment and will need to demonstrate nutrient neutrality.

### **3) Policy DM11 - Residential design**

We support the policy provisions DM11 (g), (h) (hedgerows) and (l) which encourage the incorporation of biodiversity features in all new residential development.

### **4) Policy DM12 - Non-residential design**

We support the policy provision DM12 (b) which encourage the incorporation of biodiversity features in all new non-residential development.

#### **5) Policy DM14 - Flood risk**

We support this policy and provision within policy requirement DM14 (e) for surface water runoff to be managed effectively and robustly in line with Policy DM15 and which prioritises the use of Sustainable Urban Drainage Systems (SuDS).

#### **6) Policy DM15 - Sustainable Drainage**

Natural England strongly supports the requirement for all proposals to incorporate Sustainable Draining Systems (SuDS). We are pleased to see that recognition has been given to natural solutions that can incorporate biodiversity and suggest that some examples are provided for clarity (e.g. swales, wetlands).

#### **7) Policy DM16 - Water Pollution**

We support this policy which includes policy provision for a broad range of water quality issues, including nutrient impacts of development.

#### **8) Policy DM17 - Noise, Odour and Dust Pollution**

While we support the inclusion of a policy relating to noise, odour and dust pollution, it appears that the majority of requirements relate to their impact upon human receptors. Given the impact that they can have on habitats and species, we advise that reference is made to avoiding impacts upon ecological receptors as well as human.

#### **9) Policy DM18 - Light Pollution and Dark Skies**

Natural England supports the inclusion of this policy which seeks to minimise light pollution from development proposal, not only in the context of the Kent Downs National Landscape where dark skies are a special quality but also within areas of dark skies as recognised within the Landscape Character and Biodiversity Appraisal.

## Annex 6: Sustainability Appraisal

The Sustainability Appraisal (SA) is an iterative approach with the policies and allocations being tested against the SA indicators. If negative impacts are likely, the SA should make recommendations on how to resolve/mitigate these.

In our comments on the Strategic Development Policy SS3 we noted that the SA still assesses significant negative effects (as well as minor positive/positive effects) for biodiversity, landscape and land use and soil, as well as minor negative effects for air quality, water resource and quality for housing.

However, it is acknowledged in the SA conclusion in paragraph 5.9.4 that whilst the Draft Local Plan includes policies which seek to manage these effects, and consequently it is anticipated that significant adverse effects will be largely avoided, that some uncertainty remains with a number of the Plan's policies.

As currently written, the SA doesn't seem to be making recommendations as to how these uncertainties are to be addressed and any identified residual negative effects of the Plan will be reduced.

To highlight a couple of examples:

### 1. Biodiversity (SA Objective 3)

We note that at paragraph 5.7.9 it states that:

*'Negative effects were assessed for sites in relation to biodiversity (SA Objective 3). The majority of sites were assessed as having significant negative effects which reflects locations being within 400m of designated conservation site or ancient woodland whilst a small number have Local Wildlife Sites (LWS) within them.'*

*However, it is anticipated that potential effects on biodiversity **could be lessened through the application of Draft Local Plan policies** and at the individual planning application stage, when detailed design and mitigation measures will also be considered (such as ecological mitigation and enhancement measures). Furthermore, the requirements for biodiversity net gain for all new development (as envisaged in the Environment Act) will provide biodiversity enhancement.'*

We would expect the SA to make specific recommendations as to how each policy intends to avoid or fully mitigate negative impacts identified, including any residual effects. These recommendations should then be incorporated into revised allocations and amendments to policy wording.

### 2. Landscape (SA Objective 5)

In the appraisal of the Canterbury site allocation Policies C6, C7, C12 and C17 at paragraph 5.8.15 and the Whitstable site allocation Policies W4, W5 and W6 at paragraph 5.8.25, it is acknowledged that whilst the policy requirements for landscaping and buffers to mitigate the visual impact of the development, it is considered that the potential for significant negative effects on landscape remain.

No recommendations are given in the SA regarding amendments to policy provision to address these residual impacts.

We also note here that no appraisal for impacts to landscape character is made here, nor how this is to be avoided or fully mitigated, which we would expect to see.

We advise that further information, therefore, will be required in any future updated SA for us to determine with greater certainty whether the negative effects to SA objectives relating to the natural environment have been avoided and/or fully mitigated as a result of the Canterbury District Local Plan to 2040.

## **Annex 7: Habitats Regulations Assessment (HRA)**

As we previously advised, we are pleased to see that your Authority is following accepted best-practice and running the HRA as an iterative process alongside development of your new Local Plan. We note that as the Local Plan is still in progress this HRA document does not constitute a formal 'HRA Screening' and all findings at this point are considered preliminary only.

### **Consideration of 'in-combination' impacts (paragraphs 2.7.8 – 2.7.14)**

Following our previous advice in our response to the Regulation 18 draft Local Plan (2022) we welcome the further consideration in the updated HRA (2024) of all external plans and projects that could act 'in-combination'. We note that the assessment now takes account of a number of major projects identified by PINS or otherwise identified within approximately 20km of the relevant European sites and are listed in Table 3.3. We are now satisfied that all the relevant plans and projects have been considered as part of the in-combination assessment of impacts.

### **2.9 Uncertainty and 'Down the Line' Assessment**

As we previously advised, we are generally in agreement with the points made in this section although deferring assessment to further down the line, potentially down to project-level HRA, should always be approached with caution. If such assessment was still being relied upon at Pre-Submission stage for key policies or strategic sites, then the plan could risk being found unsound as delivery would not be secure.

## **3. Baseline Summary and Impact Pathways**

### *3.1 Effect Pathways and Key Regional Pressures*

Table 3-1 identifies most of the typical effect pathways and environmental changes associated with terrestrial development we would expect the Council to assess through the HRA.

However, we strongly recommend that potential threat from Ammonia (NH<sub>3</sub>) pollution should be added to this table, as this is mentioned in paragraph 3.1.5. As we have previously advised, whilst it is acknowledged that the primary source of ammonia pollution is from agriculture, there is a growing understanding of the significance of ammonia from road traffic, as catalytic converters, whilst aiding in reducing NO<sub>x</sub> emissions, can result in increased ammonia emission.

We note at paragraph 3.1.7 of the HRA that the Council is still completing various reports and studies to update the environmental baseline for the Local Plan, some of which will be relevant to the HRA baseline including:

- Draft Canterbury District Nutrient Mitigation Strategy (2024)
- Strategic Flood Risk Assessment (2024)
- Draft Open Space Strategy (2024)
- Canterbury Riverside Strategy 2023 - 2028
- Tree, Woodland and Hedgerow Strategy
- Canterbury District Pollinator Action Plan (2023)
- Natural Environment and Open Space Topic Paper (2024)
- Climate Change Topic Paper (2024)

We note that there is no mention here of further work on Transport and air quality monitoring to inform the assessment of effects in relation to atmospheric pollution as a result of the Plan, although we understand this to be ongoing.

We also note that the HRA which supported the 2022 Regulation 18 Draft Plan indicated that reports were being undertaken in relation to the ongoing mitigation strategies and monitoring in relation to the Strategic Access Management and Monitoring (SAMM) Strategy for the North Kent sites and Thanet Coast and Sandwich Bay SPA and Ramsar sites.

We would, therefore, welcome any further information in respect of these considerations in any future iteration of the HRA.

### **3.2 European Site Summaries**

We are satisfied that the European sites as identified in Table 3-2 are all those which we would expect to be in scope and considered through the HRA.

Following our comments to the previous Regulation 18 draft Local Plan in 2022 with regard consideration to functional habitats outside the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar site and The Swale SPA and Ramsar site, we are pleased to see that the Site Summaries have been updated to make clear that functionally-linked land is a key consideration for both these SPAs as found in at 4.4.2 and in Table 4-9.

### **4.3 Screening of European Sites**

#### *Recreational pressure (paragraphs 4.3.4 – 4.3.12)*

Natural England agrees with the screening decisions set out in this Table 4.3 Summary of European site screening in relation to visitor pressure. We note that our previous comments have been included in the notes in relation to the Folkestone to Etchinghill Escarpment SAC and the recent work for the Dover District Local Plan which indicates that visitor pressure may be affecting the site. We concur with the assessment to screen out this site for recreational pressure.

#### *Urbanisation (paragraphs 4.3.13 – 4.3.17)*

We do not agree with the assessment at 4.3.16 that the only two allocations within 500m of a European site are Policy R12 and Policy R13.

The following policy allocations are also within 500m of European sites and we, therefore, advise that these be screened into the HRA for urbanisation effects:

Policy C12 Land north of University of Kent – within 400m of the Blean Complex SAC (as identified in paragraph 5.6.35)

Policy W2 Whitstable Harbour – in close proximity to The Swale Estuary SPA and Ramsar.

#### *Atmospheric Pollution (paragraphs 4.3.18 – 4.3.26)*

Whilst we welcome the reference in paragraph 4.3.15 to the significance of ammonia (NH<sub>3</sub>) from road traffic, and the recognition of catalytic converter as a significant source of NH<sub>3</sub>, we note that this does not appear to have been considered in the site screening as identified in Table 4-5. We, therefore, advise that further consideration and screening of potential air quality impact pathways, which include potential impacts from ammonia pollution, should be undertaken through the HRA.

Furthermore, as we previously advised that a standard buffer approach (e.g. 20km) should not be applied when screening for air quality impacts. Instead, the sites screened in should be based on evidence (e.g. a strategic transport assessment) showing which roads will see an increase in traffic as a result of the plan. (Our refs: 358783, December 2021 and 410619, January 2023).

Despite this paragraph 4.1.27 (now 4.3.25) indicates that a 20km buffer has still been used. We do agree with the 200m distance from affected roads and 1,000 AADT thresholds that have been used as part of the screening process.

*Water Resources and Water Quality (paragraphs 4.3.28 – 4.3.45)*

We agree with the screening decisions made in these sections.

*Flooding/Water Level Management (paragraphs 4.3.46 – 4.3.48)*

We agree with the screening decisions made in this section.

*Effects on functional habitats or species away from European Sites (paragraphs 4.3.49 – 4.3.51)*

We welcome the inclusion of Thanet Coast and Sandwich Bay SPA/Ramsar and The Swale SPA/Ramsar sites which have now been screened in relation to functional land in Table 4-9. However, we advise that the Swale Ramsar should consider functional linkages for curlew as well as dark-bellied Brent goose.

In addition, we advise that the Council should consider functional linkages for other, non-avian, species which may be associated with the European sites. For instance, we advise that there is the potential for functional linkages with the Desmoulin's whorl snail which is a notified feature of the Stodmarsh SAC.

*Screening summary (paragraphs 4.4.1 – 4.4.2)*

We advise that the screening summary will need to be updated in light of our advice above in relation to air quality impacts from ammonia, functional linkages to non-avian species, and functional linkages to curlew.

## **5. Appropriate Assessment for Stodmarsh Sites**

### *5.2 Water Quality*

#### *Nutrient Neutrality*

Natural England welcomes the steps that has been taken to identify the potential quantum of mitigation required in order to ensure that the proposed allocations within the draft Local Plan can achieve nutrient neutrality.

Whilst it is acknowledged that Natural England previously advised as part of our [advice on achieving nutrient neutrality \(2020\)](#) that the Land et al., (2016) study could be used to calculate nutrient removal efficiency ratings for wetlands, we have since updated our advice and recommend that the guidance contained within the [Wetland Mitigation Framework](#) should be adopted instead<sup>1</sup>. The Land et al. approach does not take a number of factors into account (e.g. the influent nutrient concentrations, hydraulic loading rate and the background nutrient concentration value below which further nutrient removal is not possible), which can strongly influence the nutrient load removal in wetlands. For this reason, it is likely that the final total area for wetlands could vary greatly from the Land et al., estimations and we would therefore recommend that the total area of wetlands required should be recalculated based upon the guidance contained within the Wetland Mitigation Framework.

It is recognised that a plan level (and without site-specific details), it is challenging to accurately determine local conditions that will affect the predicted nutrient budget for the draft local plan. As

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<sup>1</sup> Further guidance on designing wetlands for nutrient neutrality can also be found [here](#).

such, Natural England is satisfied that assumptions – such as the adoption of the lowest leaching rate where soil types are approximately split 50/50 (paragraph 3.8, Draft Nutrient Mitigation Strategy) – is appropriate and the most precautionary approach at this stage. We would nonetheless expect a detailed site assessment to be undertaken at a project level for any site allocations and/or developments coming forward within the plan area.

Paragraphs 4.18 and 4.19 of the Draft Nutrient Mitigation Strategy indicate that retrofitting existing housing stock may be one way in which the future nutrient budget may be offset. Whilst we recognise that retrofitted water efficiency measures can represent a nutrient reduction mitigation option under a specific set of circumstances; it should be noted that retrofitted water efficiency measures to existing developments should only be considered as a potential mitigation option if the developments connect to wastewater treatment facilities with total nitrogen and total phosphorus consents (permit limits), and that those facilities are operating without permit headroom (i.e., operating at, or close to 90% of its concentration permit limit).

Currently, none of the wastewater treatment works (WwTW) within the Stodmarsh catchment have a permit limit for total nitrogen, however it is recognised that there are planned upgrades to certain WwTWs (as secured by the Levelling Up and Regeneration Act), by 2030. Should the retrofitting of existing developments later be deemed viable (paragraph 4.19), we would advise that consideration should be given to the anticipated timelines of any planned upgrades to the WwTWs within the catchment.

Natural England would also advise that the wastewater facility operator is contacted before any strategy for retrofitted water efficiency measures is fully adopted. This is to ensure that the mitigation will be effective and has fully considered the implications of any planned improvements to the wastewater facility.

We welcome the work that has been undertaken thus far to identify potential nutrient mitigation options in support of the draft Local Plan. Natural England will continue to work with your authority (and others within the catchment) to help deliver a strategy that ensures that future development can achieve nutrient neutrality.

### *5.3 Urbanisation/Recreational Pressure*

We concur with the conclusions of the HRA in respect of the urbanisation and recreational pressure impacts for the Stodmarsh sites and the avoidance and mitigation measures proposed for these impact pathways. We support the amendments to the policy provisions of Policies R5 and R6.

## **6. Appropriate Assessment for Thanet Coast Sites**

### *Recreational pressure*

We would advise that large developments in close proximity to the Thanet Coast and Sandwich Bay designated sites may also require mitigation above and beyond the Thanet Coast Strategic Access Management and Monitoring Plan (SAMM). We would advise that the possible need for additional on-site measures should be included within the policy wording of the relevant policies.

### *Functionally linked land*

The term 'functionally linked land' (FLL) can be described as an area of land or sea that occurs outside of the boundaries of a designated site, but nonetheless is considered to be either critical to or necessary for, the ecological or behavioural functionality of a qualifying feature for which that site has been designated. Therefore, when considering the potential impacts to designated sites associated with policies and allocations contained within the draft Local Plan, consideration should



be made as to whether there is a potential impact upon sites that could be considered to be FLL or not.

It is our opinion that the golden plover associated with the Thanet Coast and Sandwich Bay SPA could potentially be affected by a loss of FLL within the plan area.

Paragraph 6.3.17 of the HRA states that “as the population of golden plover associated with the [Thanet Coast and Sandwich Bay] SPA is uncertain, it is considered appropriate to use the current WeBS 5-year peak mean of Pegwell Bay and Thanet Coast”.

Whilst we agree that WeBS data is both a robust and reliable source of data, we would advise that it is not an appropriate tool for defining thresholds of significance (in the context of potential losses of FLL). The boundaries of the ‘Thanet Coast’ and ‘Pegwell Bay’ WeBS sites do not wholly cover the Thanet Coast and Sandwich Bay SPA, and therefore are not representative of the full extent of the site. Furthermore, WeBS counts utilise 5-year peak counts for sites and are therefore subject to natural fluctuations over time. Instead, Natural England would advise that the population size described within the citation for the SPA should be used as a baseline for determining significance instead.

Paragraphs 6.3.18 – 6.3.20 discusses regional distribution patterns of golden plover associated with the Thanet Coast and Sandwich Bay and identifies *ad hoc* surveys that have been undertaken by the Kent Ornithological Society, and in support of the Richborough Grid Connection project (National Grid, 2016). It is unclear as to when the surveys were undertaken by the Kent Ornithological Society (and whether they also cover any of the site allocations), however with regard to the age of the data that was provided in support of the Richborough Grid Project, we would advise that, given the significant time that has passed since it was recorded that the survey results are unlikely to still be valid<sup>2</sup>. We would therefore caution the inclusion of this data within any determination as to whether a site should be considered as FLL or not.

## **7. Appropriate Assessment for The Swale Sites**

### *Recreational pressure*

We would advise that large developments in close proximity to The Swale designated sites may also require mitigation above and beyond the strategic solution, the North Kent Marshes SAMM. We would advise that the possible need for additional on-site measures should be included within the policy wording of the relevant policies.

### *Functionally-linked land*

We consider that the following features associated with the Swale SPA and Ramsar sites could be potentially be affected by a loss of FLL within the plan area: dark-bellied brent geese, curlew and wintering bird assemblage.

Paragraphs 7.3.1 – 7.3.3 indicates that the only feature likely to be reliant on FLL (or potentially affected by the loss of it) is the overwinter dark-bellied brent geese. However, we would highlight that curlew (which are a feature of The Swale Ramsar site) are also known to use land outside of the boundaries of The Swale designated sites during the overwintering period and should therefore also be considered when determining the impacts of a loss of FLL.

It is recognised that there are inherent challenges with determining (with confidence) whether potential allocation sites are likely to provide FLL or not, due to a number of varying factors that could affect the suitability and/or attractiveness of a site to birds associated with the SPA/Ramsar

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<sup>2</sup> [CIEEM Advice note on the lifespan of ecological reports & surveys \(April 2019\)](#).

sites. We acknowledge that overwintering birds are likely to prefer larger sites with unbroken sightlines. However, we would advise that sites that are smaller than 10ha should not be dismissed as potentially providing value as FLL.

We therefore recommend that the HRA be updated for the next phase of the Plan which includes an assessment site's potential suitability to serve as FLL based upon its proximity to the designated sites, the composition of the site, and its cropping regime (where applicable).

## **8. Appropriate Assessment of Tankerton Slopes and Swalecliffe SAC**

We concur with the conclusions and recommendations in this section that the incorporated policy measures will provide sufficient safeguards to ensure that recreational pressure does not adversely affect Tankerton Slopes and Swalecliffe SAC as a result of the Plan.

## **9. Appropriate Assessment for Blean Complex SAC**

### *Recreational pressure/Urbanisation*

Whilst we acknowledge, as noted at paragraph 9.2.3 of the HRA, that neither recreational pressure or urbanisation are currently identified as a threat or pressure in the SIP for this site, Policy C12 – Land north of the University of Kent is a strategic allocation which proposes the development of a new settlement. By virtue of its scale, we consider that this development has the potential to lead to additional pressures to the SAC of this nature.

Therefore, following the precautionary principle we advise that further consideration should be given to the assessment of recreational pressures and urbanisation in any updated HRA as the Plan progresses. Furthermore, as we have advised earlier in this letter, additional avoidance and mitigation measures should be secured in the policy provisions within Policies DS23 and C12, and our detailed comments in this regard can be found in these sections.

### *Air Quality*

We understand that work is ongoing on the assessment of potential impacts with regard to the air quality impacts on the Blean Complex SAC and that whilst this assessment is currently unavailable for this consultation further information will be forthcoming following the finalisation of transport modelling work.

We note that it is stated at paragraph 9.3.14 that the air quality assessment data associated with the University of Kent allocation provides evidence that the air quality changes due to traffic growth linked to the Canterbury District Local Plan provisions are likely to be negligible in relation to the Blean Complex SAC.

However, the HRA also acknowledges whilst the preliminary assessments indicate that there will be no adverse effects on the integrity of the Blean Complex SAC, alone or in combination, due to air quality changes, it is acknowledged that once the air transport modelling work is complete and the assessment update it is envisaged that mitigating policies within the draft Local Plan will also be reviewed, including policies SS4, DS13, DS14, DS15, DS16 and DS23.

Therefore, we look forward to continuing to provide advice on any updated strategies or policies and amendments to the HRA/future iterations of the HRA in regard to air quality impacts.

## **10. Appropriate Assessments for Lydden and Temple Ewell Downs SAC**

As above we understand that work is ongoing on the assessment of potential impacts with regard to

the air quality impacts on Lydden and Temple Ewell Downs SAC and that whilst this assessment is currently unavailable for this consultation further information will be forthcoming following the finalisation of transport modelling work.

We note at paragraph 10.2.11 is it considered that the air quality assessment data associated with the Dover Local Plan provides strong evidence that the air quality changes due to traffic growth linked to the Canterbury District Local Plan provisions are likely to be negligible.

However, the HRA also acknowledges whilst the preliminary assessments indicate that there will be no adverse effects on the integrity of the Lydden and Temple Ewell Downs SAC, alone or in combination, due to air quality changes, it is acknowledge that once the air transport modelling work it complete and the assessment update it is envisaged that mitigating policies within the draft Local Plan will also be reviewed, including policies SS4, DS13, DS14, DS15, and DS16.

As above, we look forward to continuing to provide advice on any updated strategies or policies and amendments to the HRA/future iterations of the HRA in regard to air quality impacts.

### **11. Appropriate Assessment for Dover to Kingsdown Cliffs SAC**

In relation to the assessment of potential impacts regarding the air quality impacts on the Dover to Kingsdown Cliffs SAC, our advise is as above in relation to the appropriate assessment for Lydden and Temple Downs SAC.

## Annex 8: Open Spaces Strategy

We welcome the inclusion of an open space strategy, particularly in relation to improving green infrastructure quality and levels of provision. This strategy also provides an opportunity to reference Natural England's recent Green Infrastructure Framework; in particular the use of the Green Infrastructure Framework Standards. We have highlighted two such potential areas below: -

### Section 5.1

- Objective 2 - *'Look to address low quality and low value sites through exploring opportunities for enhancement. The priority should be those highlighted as providing a key role in terms of access or which could be improved through relatively minor enhancements.'*

We welcome the focus on open space enhancement. We suggest that the related Strategic Actions in section 5.2, present an opportunity to incorporate the Urban Nature Recovery Standard \*; as a measure of improvement of quality of biodiversity which is one of the Council's quality criteria as set out in the related Open Space Assessment.

- Objective 3 – *'Ensure new developments contribute to the provision of open spaces and explore opportunities to address shortfalls in open space provision and'* - it appears that some text appears to be missing here.

This objective is welcome in relation to increasing open space provision and therefore potentially enabling improved access to quality green space. The related Strategic Actions provide the ideal opportunity to incorporate the Accessible Greenspace Standards \* (which have expanded upon Natural England's previous Accessible Natural Greenspace Standards). Such a measure would, for example, support Objective 3 of your Strategic Actions.

### **Policy Drivers and further Green Infrastructure Framework guidance**

Please see the '\* Guidance' section below for links to the Green Infrastructure Framework, including details of the Green Infrastructure Standards and national policy drivers in relation to the provision of green infrastructure. In summary, the Green Infrastructure Standards will help local planning authorities deliver in accordance with the National Planning Policy Framework (DLUHC 2021b) (paras 17, 20, 92, 154, 175, 186) and fulfil the commitments in the Government's 25 Year Environment Plan.

We therefore recommend that these are embedded throughout the Canterbury District Local Plan to 2040.

#### \* Guidance:

- NE's [Green Infrastructure Framework](#) can be used as the basis for GI planning evidence, the NE [Green Infrastructure Principles](#) and set out 'Why', 'What' and 'How' of good GI;
- the [Green Infrastructure Map](#) can be used to assist in planning GI strategically.
- NE's [Process Journeys](#) for use by Local Planning Authorities.
- NE's Green Infrastructure Planning and Design Guide: <https://designatedsites.naturalengland.org.uk/GreenInfrastructure/DesignGuide.aspx>  
This guide provides evidence based practical guidance on how to plan and design good green infrastructure. It complements the National Model Design Code and National Design Guide and can be used to help planners and designers develop local design guides and

codes with multifunctional green infrastructure at the heart.

- Refer to PPG on GI here: [Natural environment - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- [5 GI Standards](#)  
Which are:
  - S1. Green Infrastructure Strategy Standard
  - S2. Accessible Greenspace Standards
  - S3. Urban Nature Recovery Standard
  - S4. Urban Greening Factor
  - S5. Urban Tree Canopy Cover