

Statement of Common Ground
Dover District Council and Environment Agency

1. Overview

1.1 This Statement of Common Ground (SoCG) reflects the jointly agreed position between the parties, Dover District Council (DDC) and Environment Agency, in relation to the Dover District Local Plan (DDLDP) and its evidence base, as of September 2023.

1.2 The purpose of this SoCG is to demonstrate how DDC and the Environment Agency have sought to identify and address outstanding matters. It sets out the areas of agreement on matters raised by the Environment Agency in response to the Dover District Local Plan (Regulation 19 Submission).

1.3 The NPPF sets an expectation that Local Plans should be prepared with the active involvement of communities and organisations and to this end, DDC has been co-operating with the Environment Agency throughout the preparation of the Local Plan since work started in 2017. The Environment Agency formally responded to the Regulation 18 draft DDLDP consultation which took place between January to March 2021, and to the Regulation 19 Submission DDLP.

1.4 This Statement of Common Ground, without prejudice, relates to the representations made by the Environment Agency to the Regulation 19 DDLP. It addresses unresolved issues, specifically to resolve differences and arrive at an agreed position.

2. Representations made by the Environment Agency

2.1 The Environment Agency made formal representation on the Regulation 19 Submission Dover District Local Plan which took place between 21 October and 9 December 2022.

2.2. If the Inspectors are supportive of the view of EA on these matters, the Council would accept additional modifications and as such the following text has been agreed for a number of policies, without prejudice, by both parties for this purpose.

3. Current agreed position

3.1 The following table set out the responses received from the Environment Agency to the Regulation 19 DDLP. A summary of EA comments is included as well as the current agreed position and proposed modification.

Local Plan Representations			
Policy	Rep numbers	Summary of Environment Agency representations	Latest Agreed position/Modification reference

SP15	1496	<p>The connectivity of Local Wildlife Sites and other designated sites should not be disrupted through the allocation of sites for development and should aim to promote further connectivity of the ecological blue and green network through habitat creation and improvement. A numerical commitment to biodiversity net gain is required in order to be in line with the Environment Act 2021 and should be realised equally in both terrestrial and aquatic habitats using the Natural England Biodiversity and Rivers Metrics.</p> <p>Allocated sites should not encroach on any watercourse, and we urge a minimum 10m buffer zone to development proposals that contain or are adjacent to watercourses.</p> <p>Where there is opportunity for river restoration, such as habitat enhancement/creation, remeandering, improved fish/Eel passage and the restoration of culverted watercourses to open channels, we would like to see a commitment to actively pursue these aims.</p> <p>Special focus could be aimed at culverted sections of any watercourse. If/where the watercourse is toe-boarded site allocations should consider opportunities for removal.</p> <p>With reference to Paragraph 185 of the NPPF (2021) which states that planning policies and decisions should “limit the impact of light pollution from artificial light on ... dark landscapes and nature conservation.” We would urge appropriate lighting design in line with best practice guidance set out by the Bat Conservation Trust as riparian corridors are essential for many migrating and nocturnal species.</p>	<p>No modification required.</p> <p>Policy NE1 sets out a numerical commitment to biodiversity net gain on development sites.</p> <p>No modification required.</p> <p>Policy NE6 seeks to actively enhance the River Dour and its habitats and Policy SP14 refers to conserving and enhancing blue corridors.</p> <p>Proposed new Post Submission Modification (PSMxx) at Policy PM1, as a new criteria 5(g):</p> <p><u>“Ensure that outdoor lighting is sensitively located and designed to minimise light glare, light spillage, light trespass and sky glow. Outdoor lighting should avoid: adverse</u></p>
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		<p>As an informative point, allocations should take into consideration the use of sustainable urban drainage systems (SuDS) and Natural Flood Management (NFM) measures for flow attenuation, filtration, and water conservation.</p> <p>We welcome engagement at the earliest opportunity to identify opportunities through development proposals for securing measurable gains for biodiversity.</p> <p>Local Plan to 2040 The government's 25 year plan to improve the environment should possibly be referenced in the Local Plan (25-year-environment-plan.pdf (publishing.service.gov.uk). Although many items mentioned in the 25 year plan are covered in the Local Plan, it makes sense to align government plans with local plans.</p>	<p><u>impacts on residential amenity; disruption to the movement of wildlife on blue and green corridors; impact on designated/priority habitats and protected species; adverse impact on protected landscapes, heritage assets, or areas where dark skies are an important part of the nocturnal landscape.</u>"</p> <p>No Modification Required</p> <p>No Modification Required</p> <p>No Modification Required. The Sustainability Appraisal describes the substantial International, National, Sub-national and Local policy context to the emerging local plan.</p>

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CC4	1497	The wording on the water efficiency policy confirms the optional higher water efficiency standard for all new dwellings of 110 litres per person per day and is one that we support, it is also encouraging that the Local Planning Authority “strongly support” proposals seeking more stringent water efficiency measures.	N/A
Para 4.38	SDLP1501	The wording contaminated land has a legal definition under Part IIa S 78A. There are no current determined Contaminated Land sites in Dover as far as I know, the wording here needs to be changed to land affected by contamination .	An Additional Modification (AM28) is proposed as follows: “Where sites are identified as being on contaminated land, then <u>may be affected by contamination</u> , a land contamination assessment will be required.....”

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SAP5	SDLP1503	<p>Para 4.110 refers to registered contaminated land.</p> <p>This section is incorrect. Land contamination may have been logged at the site and it may be on the planning brownfield register perhaps, but we have not been notified by Dover that it has been determined formally as Contaminated Land</p>	<p>A Post Submission Modification (PSMxx) is proposed:</p> <p>Amend para 4.110 as follows:</p> <p>“The site is located within Ground <u>a groundwater</u> source Protection Zone <u>3</u> and land <u>potentially affected by contamination</u> contaminated is registered at <u>within</u> the site and part of the site falls within the AONB. These issues need to be addressed within any proposal”.</p> <p>Please note that the Post Submission modification set out above supersedes AM34 proposed within SD06</p>

NE5	SDLP1504	<p>Modifications proposed</p> <p>Instance 3</p> <p>11.48 In the areas of the district which are not on mains drainage, water treatment package plants can be installed, subject to the approval of the Environment Agency in the first instance.</p> <p><u>11.48 In the areas of the district which are not on mains drainage, water treatment package plants may potentially be installed if they can meet non mains drainage design criteria. If they cannot they should be consulted on with the Environment Agency in the first instance, as they may require a formal Environment Permit for any discharges.</u></p> <p>Instance 4</p> <p>11.51 For residential and commercial developments where there is no mains connection within a reasonable distance, applicants will be required to provide details of a water treatment package plant or equivalent that is compliant and has been approved by Environment Agency guidance, as part of a planning application. Applications for residential extensions will not be required to provide such details.</p> <p><u>11.51 For residential and commercial developments where there is no mains connection within a reasonable distance, applicants will be required to provide details of a water treatment package plant or equivalent that is compliant with Non-mains drainage regulations as part of a planning application.. Discharges to ground that do not meet relevant exemption criteria will also require an environment permit from the Environment Agency. Further guidance is on .go.uk. Applications for residential extensions may not be required to provide such details under planning, but will still have to ensure that drainage systems comply with Non-mains drainage regulations and meet Building regulations.</u></p>	<p>Note: Instance 4 and 5 are the same comment</p> <p>A Post Submission Modification (PSMxx) is proposed as follows:</p> <p>11.48 delete final sentence:</p> <p>“.....In the areas of the district which are not on mains drainage, water treatment package plants can be installed, subject to the approval of the Environment Agency in the first instance. “</p> <p>Delete and replace 11.51:</p> <p>11.51 “For residential and commercial developments where there is no mains connection within a reasonable distance, applicants will be required to provide details of a water treatment package plant or equivalent that is compliant with, and has been approved by Environment Agency guidance, as part of a planning application. Applications for residential extensions will not be required to provide such details. In the areas of the district that are not on mains drainage, wastewater treatment plants may potentially be installed if they can meet non-mains design criteria. As part of planning applications, applicants</p>
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		<p>Instance 5</p> <p>11.51 For residential and commercial developments where there is no mains connection within reasonable distance, applicants will be required to provide details of a water treatment package plant or equivalent that is compliant with, and has been approved by Environment Agency guidance, as part of a planning application. Applications for residential extensions will not be required to provide such details.</p> <p><u>11.51 For residential and commercial developments where there is no mains connection within reasonable distance, applicants will be required to provide details of a water treatment package plant or equivalent that is compliant with Non Mains Drainage regulations and aligns with Environment Agency risk assessment guidance, as part of a planning application. In some instances a separate Environmental Permit may be required from the EA. Applications for residential extensions will be required to provide details to show any risks are not exacerbated and current systems comply with NMD Regulations.</u></p> <p>Aside from the aforementioned alterations, we approve of the importance placed on Groundwater protection in a number of policies, and explanatory text. The plan covers everything reasonably well from our view point. While there is no explicit policy on land affected by contamination, brownfield sites and other potentially pollution development is mentioned in various policies under water infrastructure and the like are mentioned adequately.</p>	<p><u>will be required to provide details of a wastewater treatment plant or equivalent that is compliant with non-mains drainage regulations and aligns with Environment Agency risk assessment guidance. Applications for residential extensions will be required to show any risks are not exacerbated and ensure current drainage systems comply with non-mains drainage regulations and meet building regulations. Discharges from treatment plants or equivalents may require an environmental permit from the Environment Agency unless it meets exemption criteria”.</u></p> <p>Please note that the Post Submission modification (PSMxx) set out above supersedes AM114 proposed within SD06</p>

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CC5	SDLP1505	<p>We would recommend a slight amendment to the wording in this policy in order to comply with the NPPF's guidance's definition of a "design flood" Paragraph:002 Reference ID: 7- 002-20220825 Flood risk and coastal change - GOV.UK (www.gov.uk)</p> <p><i>Where development does go ahead, all floor levels for living and sleeping accommodation should be set at a minimum of 300mm and 600mm above the design flood level for Flood Zones 2 and 3 respectively, including an allowance for climate change.</i></p>	<p>Proposed Post Submission Modification (PSMxx) will refer to the design flood level:</p> <p>Amend final paragraph of Policy CC5:</p> <p>".....Where development does go ahead in <u>FZ3</u>, all floor levels for living and sleeping accommodation should be set at a minimum of 300mm and 600mm above the <u>design</u> flood level for <u>Flood Zones 2 and 3</u> respectively, including an allowance for climate change".</p> <p>Please note that the Post Submission modification (PSMxx) set out above supersedes AM85 proposed within SD06</p>

SAP16	SDLP1506	<p>We have reviewed the new sites for housing allocation included in the Reg 19 Submission Summary of Site Allocations and would draw your attention to 3 of these sites that lie within FZ3: Northwall Road & Ethelbert Road, Deal.</p> <p>These site lie within Flood Zone 3a; this is an area considered to be at 'high risk' from flooding in the absence of tidal defences. Whilst we appreciate that both Sandwich and Deal are well defended from tidal flooding, there is always a 'residual' risk from inundation in such areas. Accordingly, we would request that your Authority initially considers whether these sites suitably address the requirements of the flood risk Sequential Test before allocating them in the local plan.</p> <p>The updated PPG to the NPPF places more emphasis on residual risk; therefore when considering these allocations it should be understood that in order for development to be made safe, it is likely that the ground floor would not be suitable for any form of living accommodation. Detailed design would be subject to a site-specific FRA but given the potential depths of flooding in the event of failure or breach of defences, development is unlikely to meet the requirements of Policy CC5 or the Exception Test, unless all living and sleeping accommodation is set at first floor or above. If this is would be unacceptable to the LPA, then these sites should not be allocated.</p>	<p>These are brownfield, or partially brownfield sites in sustainable locations in the settlement of Deal and offer the opportunity for regeneration. Both sites performed well in the sustainability Appraisal and there is scope to avoid or significantly mitigate any negative effects.</p> <p>CCEB01c-Strategic-Flood-Risk-Assessment-Level-2.pdf (doverdistrictlocalplan.co.uk)</p> <p>The Council is confident that the requirement of Policy CC5 can be met through the completion of site specific FRAs as recommended in the SFRA. The Exception Test will not be considered passed until a site-specific FRA further examines the risk and recommends appropriate mitigation measures, taking account of residual risk (the risk that remains should defences be breached or overtopped). This is likely to require habitable accommodation to be raised above design flood level, and this would be acceptable to the Council.</p>
SAP17	SDLP1507	<p>We have reviewed the new sites for housing allocation included in the Reg 19 Submission Summary of Site Allocations and would draw your</p>	<p>It is assumed the EA is referring to SAP17: Land to the south of Stonar Lake and to the</p>

		<p>attention to 3 of these sites that lie within FZ3: Deal, Stonar Close, Sandwich.</p> <p>These sites lie within Flood Zone 3a; this is an area considered to be at 'high risk' from flooding in the absence of tidal defences. Whilst we appreciate that both Sandwich and Deal are well defended from tidal flooding, there is always a 'residual' risk from inundation in such areas. Accordingly, we would request that your Authority initially considers whether these sites suitably address the requirements of the flood risk Sequential Test before allocating them in the local plan.</p> <p>The updated PPG to the NPPF places more emphasis on residual risk; therefore when considering these allocations it should be understood that in order for development to be made safe, it is likely that the ground floor would not be suitable for any form of living accommodation. Detailed design would be subject to a site-specific FRA but given the potential depths of flooding in the event of failure or breach of defences, development is unlikely to meet the requirements of Policy CC5 or the Exception Test, unless all living and sleeping accommodation is set at first floor or above. If this is would be unacceptable to the LPA, then these sites should not be allocated.</p>	<p>north and east of Stonar Gardens. This site is in Zone 2 and 3.</p> <p>This is a previously developed site in a sustainable location in the settlement of Sandwich and offers the opportunity for regeneration. The site performed well in the sustainability Appraisal and there is scope to avoid or significantly mitigate any negative effects.</p> <p>CCEB01c-Strategic-Flood-Risk-Assessment-Level-2.pdf (doverdistrictlocalplan.co.uk)</p> <p>The Council is confident that the requirement of Policy CC5 can be met through the completion of site specific FRAs as recommended in the SFRA. The Exception Test will not be considered passed until a site-specific FRA further examines the risk and recommends appropriate mitigation measures, taking account of residual risk (the risk that remains should defences be breached or overtopped). This is likely to require habitable accommodation to be raised above design flood level, and this would be acceptable to the Council.</p>
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App A	SDLP1508	<p>Water Cycle Study: Although the water cycle study has been updated, not all information contained in this report is the most recent available. There is a reference to the SE River Basin Management Plan (2016). This is currently being updated with more recent information now available at the following links:</p> <p>Updated RBMP 2022 https://www.gov.uk/guidance/south-east-river-basin-district-river-basin-management-planupdated-2022</p> <p>River basin management plans, updated 2022: challenges for the water environment https://www.gov.uk/government/publications/river-basin-management-plans-updated-2022-challenges-for-the-water-environment</p> <p>The link on challenges for the water environment includes important information on the climate emergency and the biodiversity crisis. It would be useful to consider this latest information in the Local Plan and Water Cycle Study and include links in the documents. Even though many of the items have been covered in the Local Plan and associated documents, it would add value to the plan by including links to the latest information.</p> <p>Water Cycle Study, Point 6.5 Nutrient Neutrality - <i>As a result of the mitigation measures for demonstrating this being difficult to deliver it has effectively resulted in an embargo on the granting of permissions for new housing in the areas affected, since the advice was issued nearly two years ago.</i></p> <p>This statement possibly gives the wrong message about nutrient neutrality and may not show the importance to protecting European sites such as Stodmarsh. Although it might be difficult in some cases to achieve nutrient neutrality for developments, the concept of nutrient neutrality is to protect the environment so that future generation</p>	<p>No modifications have been proposed because the Water Cycle has been updated in 2023: CCEB03 Water Cycle Study Update March 2023 (doverdistrictlocalplan.co.uk)</p>
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		will be able to enjoy the benefits. The intention of nutrient neutrality is not to stop development, but rather to allow for sustainable development.	

4. Conclusions

4.1 It is agreed by both parties that, all matters have been addressed through the Additional Modifications (SD06) and Post Submission Modifications proposed within the table above.

5. Signatories

<p>Signed on behalf of Dover District Council:</p>  <p>Name: Sarah Platts Position: Head of Planning and Development Date: 1 October 2023</p>	<p>Signed on behalf of The Environment Agency:</p>  <p>Name: Jennifer Wilson Position: Planning Specialist Date: 3 October 2023</p>
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