

## UPDATE TO DDC RESPONSE TO NATURAL ENGLAND REPRESENTATIONS ON REGULATION 19 SUBMISSION LOCAL PLAN

This Update Note addresses outstanding matters raised in letter from Natural England, sent by email on 27 March 2023 and discussed at meeting between Natural England and DDC on 28 March 2023.

### A. DDC Response to issues raised by Natural England in Representations received 9 December 2023

SDLP Rep No: SDLP1463	Regulation Local Plan Policy/para no: CC8
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Encourage that criterion d be expanded to explicitly secure the inclusion of aftercare for newly-planted trees in order to maximise survival rates.

#### DDC Response:

*The maintenance element of the required Landscaping Scheme (CC8 d) will address the care and maintenance of any new planting and that therefore no additional mention of maintenance is required in the Policy. In relation to this issue, the Council's standard conditions for newly planted trees and plants require the replacement of new trees that die within five years of planting.*

SDLP Rep No: SDLP1475	Regulation Local Plan Policy/para no: NE2
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**DDC Response: *second paragraph of NE2 amended (amendments, as shown below, also incorporate proposed amendments resulting from other representations received)***

In addition, all proposals within the Kent Downs AONB, including the Heritage Coasts, must have regard to the primary purpose of conserving and enhancing the natural beauty of the Kent Downs AONB. All proposals within, or affecting the setting of, the AONB should be limited in scale and extent and will be supported where: [...]

*With regard to request for addition of definition of major in the context of development in the AONB, it is not possible to clearly define major in this context. The NPPF makes clear that "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".*

### B. DDC response to areas for further work/discussion

SDLP Rep No: SDLP1475	Regulation Local Plan Policy/para no: SP13
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Consider proposed updated wording to SP13 still incorrect with regard to the mitigation hierarchy and mitigation/compensation.

**DDC Response:**

***Amended wording below agreed following meeting with Natural England 28<sup>th</sup> March 2023 on approach to mitigation hierarchy.***

**The Mitigation Hierarchy**

i Development affecting designated sites and biodiversity assets, including protected and priority species, will apply the mitigation hierarchy as required by the NPPF; ~~and so will only be permitted if it can be demonstrated that:~~

- ~~i) There are no alternative solutions~~
- ~~ii) The adverse effects are unavoidable~~
- ~~iii) Measures are taken to mitigate for, or as a last resort, compensate for the adverse effects.~~

~~There is an overall biodiversity net gain, and~~

~~If there are any residual adverse effects which cannot be avoided, mitigated or compensated for, the benefits of the development must clearly outweigh the adverse effects on the nature conservation value and any broader impacts on national and local designations.~~

~~j Mitigation measures will be required to be delivered on-site, unless special circumstances dictate that off-site compensation is more appropriate. Financial contributions, in lieu of on-site mitigation, will only be considered as a last resort and in very exceptional circumstances, and where it is demonstrated that the proposed compensation is deliverable and effective in mitigating the harm identified.~~

k All mitigation, compensation and enhancement measures should take account of ~~comply with~~ the requirements of Policy SP14 ~~and with~~ the Dover District Green Infrastructure Strategy and relevant Local Nature Recovery Strategy.

<b>SDLP Rep No: SDLP1478</b>	<b>Regulation Local Plan Policy/para no: NE3</b>
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Large developments outside the 9km Zone of Influence may have the potential for a likely significant effect on the Thanet Coast and Sandwich Bay SPA, either alone or in combination, that would warrant further assessment under the Habitat Regulations. Reference should be to such large developments in the Policy.

**DDC Response**

***Accept. Amend final paragraph of NE3 as follows:***

*Developments for other uses that would increase recreational activity causing disturbance to qualifying bird species, including but not limited to holiday accommodation, hotels and leisure uses, and for large scale residential developments outside the Zone of Influence but which may have the potential for a likely significant effect on the Thanet Coast and Sandwich Bay SPA, will be assessed on a case by case basis under the Habitat Regulations and may be required to make full or partial contributions towards the delivery of the SAMM Strategy if appropriate.*

<b>SDLP Rep No:</b> SDLP1475	<b>Regulation Local Plan Policy/para no:</b> SP14/3.289
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Policy would benefit from a specific policy hook requiring coastal development to consider work on coastal squeeze issues.

#### **DDC Response**

***As paragraph 3.289 notes, work on examining and addressing this issue will be progressed during the lifetime of the Plan. This issue is not sufficiently advanced to be in Policy.***

<b>SDLP Rep No:</b> SDLP1475	<b>Regulation Local Plan Policy/para no:</b> NE4
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Natural England would appreciate opportunity to discuss traffic-generated ammonia issues as further advice develops with the Council and consultants.

#### **DDC Response**

***DDC is happy to facilitate discussions on this with our consultants when NE advice changes.***