

Examination of the Tunbridge Wells
Borough Local Plan

**Tunbridge Wells Borough Council
Hearing Statement**

**Matter 14: Sustainable Design
and Heritage and Conservation
(Policies STR2, STR4, STR7,
EN1, EN2, EN3, EN4, EN5 and
EN7)
Issue 1: Design and Design
Standards**

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Matter 14 – Sustainable Design and Heritage and Conservation (Policies STR2, STR4, STR7, EN1, EN2, EN3, EN4, EN5 and EN7)

Issue 1 – Design and Design Standards

Inspector's Question 1: [re. need for supporting statements]

Is it necessary and justified for all development proposals to include supporting statements to demonstrate compliance with the wide range of factors referred to in Policy EN1?

TWBC response to Question 1

Introduction

1. Policy EN1 of the Submission Local Plan (SLP) (see pages 323 to 331 of [CD 3.128](#)) includes a wide range of important criteria to help guide planning applicants on achieving sustainable design.
2. As set out at paragraph 6.21 of the supporting text, this policy aspires to achieve high quality and sustainable design throughout the borough and will be used to assess all development requiring planning permission. It is considered that all/most criteria would apply to the majority of applications. However, as set out in the first paragraph of the policy itself, although all proposals for development within the borough will be required to satisfy the policy criteria, this is dependent on the type of development proposed. For example, a small householder application for an extension would have different implications and requirements to that of a major development scheme for a large number of dwellings. Therefore, it would be reasonable to expect that only criteria relevant to that proposal would be required to demonstrate compliance (or to justify departure). These criteria are commonly presented in Design and Access Statements submitted to support planning applications.

3. The design checklist detailed on pages 329 – 331 of the SLP provides a quick and simple way for planning applicants to review which criteria are applicable to their particular proposal and to check for compliance/departure under each section.
4. The fourth paragraph in the policy wording at page 326 of the SLP, also makes reference and provides a link to the Council's website [Planning local validation checklist](#) for planning advice and the information required to be submitted with a planning application. This provides information and guidance about the type of information that should be submitted to support planning application proposals and again this will vary, depending on the type of application proposed.
5. In summary, the Council aims to achieve a high standard of sustainable design across the borough, therefore the policy will be applied in a proportional way depending on the type of development proposed. As set out under paragraph 2 above, it is expected that even smaller schemes will need to be checked against the criteria and supporting documents submitted where relevant. However, overall, it is not considered to be necessary, justified nor reasonable for all planning applications to comply with and produce supporting statements to demonstrate compliance with every criterion, as, again, this will depend on the type of development proposed.

Inspector's Question 2: [re. justification for 'CEMP' thresholds]

What is the justification for a Construction Environmental Management Plan for all developments over 20 units / 2,000 square metres?

TWBC response to Question 2

6. The thresholds for the preparation of Construction Environmental Management Plans (CEMP) in Policy EN1 were chosen so as to "capture" more significant developments, but not so low as to overburden smaller housebuilders.
7. The production of CEMPs is well established Development Management practice for major sites or those with particular constraints. They are required through a condition attached to a planning permission, reviewed by the Council's Environmental Protection team and the Highway Authority which advise the relevant case officer. Developers are generally aware of such a requirement and the Council is not aware of any opposition to the requirement.
8. The thresholds of 20 units and 2,000sqm floorspace were formalised through inclusion in the Draft Local Plan. There was only one comment on the threshold at that stage, which was that the scope of the policy was too broad for developments of this size threshold.
9. Similarly, at Regulation 19 stage, Kent County Council queried whether it is possible to require a Construction Environmental Management Plan (CEMP) for all developments, not just those over 20 units/ 2,000sqm. However, KCC is not pursuing the matter in the light of the Council's response that the CEMP thresholds are deemed appropriate and reasonable, so as not to overburden smaller developers [[CD 3.155](#)].
10. In conclusion, while there are no definitive thresholds for requiring a CEMP in any guidance, those set out in Policy EN1 are regarded as proportional, having regard to the activity, in terms of vehicle movements, plant emissions and construction waste, of such larger developments. While a somewhat lower threshold may be achievable, this was considered to be disproportionate for smaller schemes and a disincentive for smaller housebuilders, as stated above.

Inspector's Question 3: [re. sustainably sourced materials]

How would a decision-maker determine whether materials had been sustainably sourced by local suppliers for the purposes of Policy EN1(1)(5)?

TWBC response to Question 3

Introduction

11. The choice of materials that a contractor makes can make a substantial difference to the carbon footprint of a development. Traditionally, a linear economy or 'cradle to grave' approach has been utilised in which raw materials are extracted, undergo a manufacturing, transportation, construction, operation and, finally, disposal or demolition. However, the construction industry now widely recognises that a circular economy or 'cradle to cradle' approach is necessary in which there is zero waste and materials at the end of their life are repaired, remanufactured, reused or recycled ([Green Building Council 2021](#)).
12. The intention of the policy requirement at EN1(1)(5) is to help promote the circular economy. The policy expectation in full is as follows:

“Where possible, materials should be used that are sustainably sourced by local suppliers and with low embodied carbon such as recycled or secondary aggregates and can be easily reused or recycled at the end of their life.”
13. The approach is in line with the [Kent Environment Strategy](#) which was adopted by TWBC in 2016 and the Kent and Medway Energy and Low Emissions Plan (2020) which is planned for adoption in 2022 (see page 17).
14. There are three main methods by which a decision-maker can determine whether construction materials are procured from sustainable sources and from local suppliers:
 - requesting proof of accreditation,
 - requesting purchase orders/sales receipts from intended suppliers, or
 - reviewing a CEMP that details how material purchase will be unnecessary due to reuse of materials on site.

15. Each of these methods are simple to do and a practise that is already common-place for discharging conditions relating to renewable energy technology installations. Each of these methods is considered below.

Responsible Sourcing Certification Schemes

16. There are several certification bodies within the construction industry that are available to help suppliers or contractors prove they have adopted a sustainable building approach that encompasses responsible sourcing of materials and the ethical conditions of the workforce in the supply chain.
17. At national level, BES 6001 (Responsible Sourcing in Construction) is overseen by the British Standard Institution (BSI) and is the most widely recognised. It is aimed at manufacturers of construction products who wish to prove their products are made with responsibly sourced constituent materials. All current certificates for each construction product are available to check on the [BRE webpages](#). These webpages record whether certificates are valid or expired, and the rating achieved ranging from pass, good, very good and excellent. BES 6001 is recognised by BREEAM and the Home Quality Mark.
18. ISO 20400 is the international standard for sustainable procurement created in 2017 that captures the importance of an organisation's supply chain in delivering sustainable procurement, capturing all products consumed by a company.
19. Outside of these two overarching standards, further well-recognised schemes that address specific materials include:
- Forestry Stewardship Council (FSC) or the Programme for the Endorsement of Forest Certification (PEFC) for timber products
 - Concrete Sustainability Council (CSC) for concrete product manufacturing processes awarded bronze, silver, gold or platinum levels
 - Aluminium Stewardship Initiative (ASI) for manufacturer of aluminium products such as cladding production
 - CARES Sustainable Construction Steel Scheme for steel products

Purchase orders/invoices/sales receipts/material specifications

20. Where certificates for responsible sourcing are unavailable, it would be possible for a planning applicant or developer to prove they intend to use local, responsible sources for products through the submission of purchase orders, invoices or sales receipts for construction products they have bought, or sales brochures which include the technical specification for products they intend to buy.
21. This approach is common practice for smaller developers and usually secured via planning condition which can be discharged using the professional judgement of planning officers.

Construction Environmental Management Plan (CEMP)

22. Finally, in line with the requirement in Policy EN1 (1) (11), demonstrating that the proposed development follows the waste hierarchy by reusing waste on site instead of incorporating new materials would be an alternative, effective way of proving materials are sustainably sourced.
23. This could be confirmed within the CEMP (or supporting statement for smaller development), which is already a requirement under EN1 so does not impose any additional burden upon developers.

Conclusion

24. In conclusion, there are a several mechanisms available for demonstrating compliance with this policy aspect and the most appropriate one will vary depending on the nature in of the application and the experience of the developer. The Council's internal sustainability specialist officer will provide advice as applications are received, in order to establish what will be possible.

Inspector's Question 4: [re. clarity of Policy EN1(1)(12)]

Is it sufficiently clear what is required of Policy EN1(1)(12)?

TWBC response to Question 4

25. Part (1) (12) of Policy EN1 Sustainable Design states:

“Proposals should encourage positive behaviour change, such as provision of drinking fountains in public realm developments to discourage purchase of single use plastic”.

26. Behaviour change is a broad topic but critical in contributing to sustainable development and minimising the use of natural resources. It is mentioned throughout the [Kent and Medway Low Emissions Strategy](#) (proposed for adoption by the borough in 2022) and the [Kent Environment Strategy](#) (adopted by the borough adopted in 2016).

27. This policy expectation applies to a wide range of developments ranging from public realm developments to communal housing with shared recycling facilities, to any development for which promotion of home-working and/or sustainable transport measures are a key. Planning has a key role in facilitating this change.

28. The policy provision helps implement Strategic Policy 5: Infrastructure and Connectivity and Strategic Policy 7: Climate Change.

29. A specific example of drinking water fountains has been included as advice to applicants. This example was instigated by borough councillors in response to comments they had received from constituents who were concerned about the rise in plastic water bottles. It is not a requirement of development but included to highlight the scope of measures to promote positive behaviour change. Its inclusion raised very little comment at the Regulation 18 consultation stage [[CD 3.69](#)], one querying its application and another considering it guidance rather than policy. No further comments were received at Regulation 19 stage.

Inspector's Question 5: [re. optional water standard]

What is the justification for requiring development proposals to meet the tighter Building Regulations optional requirement for water? Is it clear what is required in this regard?

TWBC response to Question 5

30. The requirement in Policy EN 24 Water Supply, Quality and Conservation to meet the tighter optional requirement for water conservation is both justified and clear.
31. The Water Efficiency Background Paper [[CD 3.104](#)] explains that Government introduced a new approach to the setting of technical housing standards in 2015, which rationalised the many differing existing standards into a simpler, streamlined system. A new and optional water efficiency standard was introduced as part of this reform.
32. The standard allows Local Planning Authorities to enforce upon residential developers a more ambitious water conservation target of 110 litres per person per day instead of the existing Part G Building Regulations mandatory target of 125 litres per person per day. To implement this more ambitious target, Local Authorities are required to demonstrate a clear local need (see [PPG Housing: Optional Technical Standards](#) para 15). The clear local need must be demonstrated via a consideration of evidence and viability and via consultation with relevant bodies.
33. The Water Efficiency Background Paper [[CD 3.104](#)] summarises how these three expectations have been met in Table 8.1 on page 15, and sets out the key justification for this local need as follows:
 - The water supply for Tunbridge Wells Borough has been classified by the Environment Agency as being under “Serious Water Stress”.
 - Water consumption within the borough is 158 litres per person per day (lpppd) which is higher than both the Kent and national averages [[CD 3.156](#) pg 281] of 154 and 141 lpppd respectively.
 - Water supply efficiency is a key priority for the [Kent and Medway Low Emissions Strategy](#) (proposed for adoption by the borough in 2022) and the [Kent Environment Strategy](#) (adopted by the borough in 2016).

- Viability implications are marginal
34. The approach being proposed is in line with paragraph 153 of the NPPF which states that “Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for ... water supply”.
 35. In terms of the clarity of the policy, the requirement within the Local Plan is set out in Policy EN24 Water Supply, Quality and Conservation as follows:

“All new residential dwellings must be designed to achieve a maximum water consumption rate of 110 litres per person per day, as measured in accordance with an approved methodology.”
 36. It is pertinent to note that many developers in the borough are already volunteering an approach that incorporates this higher standard and are familiar with the simplistic approaches required such as the installation of flow restricting devices to taps and showers.
 37. The policy deliberately avoids prescribing the precise approach that the developer should undertake in order to encourage innovation and more ambitious installations such as rainwater harvesting and greywater recycling systems.
 38. Finally, it is noted that the Environment Agency has indicated its support for the policy in a Statement of Common Ground signed with the Council, as set out at Appendix H2 of the Council’s Duty to Cooperate Statement at page 11 of [CD 3.132c\(v\)](#).

Inspector’s Question 6: [re. regard to pre-application engagement]

What is the justification for considering planning applications ‘more favourably’ which can demonstrate that views expressed in pre-application engagement have been ‘properly considered’?

TWBC response to Question 6

Introduction

39. Paragraph 6.25 and of the supporting text to Policy EN1 and section/criterion 9 of the policy wording propose that:

“New development should be informed by effective engagement between applicants, local communities, neighbours of sites, local planning authorities, infrastructure providers, and other interested parties throughout the planning process. Applications that demonstrate early, proactive, and effective engagement, and that the views expressed in that engagement have been properly considered, will be looked on more favourably than those that cannot.”

40. The justification for considering planning applications more favourably where it can be demonstrated that views expressed in pre-application engagement have been properly considered is set out below, firstly through the consideration of national legislation and policy and then the Council’s Statement of Community Involvement.

National Policy

41. Firstly, the approach to community engagement in Policy EN1 is indeed advocated by paragraph 132 of the NPPF which states that:

“Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.”

42. The approach is also supported further by paragraphs 39 to 42 of the NPPF which state that:

“39. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

40. Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.

41. ... For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.

42. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle...”

43. While paragraph: 010 Reference ID: 20-010-20150326 (Local people at the pre-application stage) of [Planning Policy Guidance – Before Submitting an Application](#) states:

“Pre-application engagement with the community is encouraged where it will add value to the process and the outcome.”

The Council's Statement of Community Involvement

44. The Council's latest Statement of Community Involvement (SCI) [[CD 3.55](#)] was adopted in October 2020. Pages 18 and 19 make reference to consultation with other parties at the pre-application stage.

45. In relation to pre-application proposals, paragraph 4.4 states:

"It is at this early stage in discussing planning applications that potential applicants/developers will be encouraged to engage effectively with communities, neighbours of sites, the Council, infrastructure providers, and other interests throughout the planning process (please see below). Emerging planning policy sets out that applications that can demonstrate early, proactive, and effective engagement with the community will be looked at more favourably than those that cannot."

46. Paragraph 4.6 refers to major and/or controversial development and advises that applicants will be expected to carry out pre-application community engagement, tailored to reflect the nature and scale of the proposed development. Paragraph 4.7 goes on to advise that in other cases, for smaller development proposals, voluntary and proportionate consultation is recommended. This will vary dependent on the scale and location of the development, but there is a strong expectation that, as a minimum (for a small-scale proposal such as an extension), that the applicant discusses any proposals with their neighbours prior to submitting a planning application.

47. The benefits of pre-application and early consultation are outlined on page 19 of the SCI, and can be summarised as follows:

- Early engagement has significant potential to improve the efficiency and effectiveness of the planning application process for all parties and will result in better coordination between public and private resources and in improved outcomes for the community; and may well prevent abortive work being carried out or unnecessary delay in the planning approval stage
- Pre-application community involvement with local people allows members of the public to have their say while the details of the scheme are still being put together and ultimately this should produce a scheme that better fits its local environment and is of higher quality design.

Conclusion

48. Planning applications that have ~~been subject to the benefit of~~ pre-application engagement will have the benefits of having more fully considered issues raised by statutory consultees, such as the highway authority, utility providers, as well as by local interested parties. It follows that such applications are more likely to be favourably determined than those which haven't evolved through such consultation.
49. The views of interested parties, insofar as they relate to planning matters, are relevant in the weighing of pros and cons of proposals in the "planning balance". Any feedback received from interested parties at the pre-application stage may be as pertinent in this respect as that received in response to the formal application.
50. Therefore, the extent to which such views, issues and concerns, including those of the local community, have been obtained and taken into account in the preparation of an application is material, should improve the understanding of the impacts of a proposal and, hence, it is more likely to be favourably considered.
51. Also, ultimately, effective engagement will speed up the planning application process by minimising delay and costs, with the overall result of providing better outcomes for the local community and environment.