



# **Paddock Wood Town Council Hearing Statement**

**Tunbridge Wells Borough Local Plan  
Examination**

**STAGE 1 (Matter 1 – Legal Compliance)**

**February 2022**

***This Hearing Statement is prepared and submitted on behalf of Paddock Wood Town Council (PWTC) and is supported by the Paddock Wood Neighbourhood Plan Steering Group.***

## **MATTER 1 – LEGAL COMPLIANCE**

### ***ISSUE 1 – DUTY TO COOPERATE***

**Q1. The Duty to Cooperate Statement – Part 1 (Revised November 2021)<sup>1</sup> states that the Council has identified sufficient sites to meet its local housing need in full. Whilst this involves the removal of land from the Green Belt and some major development in the High Weald AONB, paragraph 4.14 states that neighbouring authorities were approached to help in meeting housing needs but were unable to assist.**

**What did this process entail and how did the Council explore the possibility of meeting housing needs in areas outside the Green Belt and High Weald AONB? Can the Council point to evidence of effective and on-going joint working with neighbouring authorities beyond Green Belt and AONB boundaries?**

#### **PWTC Response:**

1. Unfortunately, this ‘revised’ document is saved on the Council’s ‘submission documents’ despite the fact that it was submitted after its submission so should be saved in the ‘post submission’ section. Therefore, it has just come to our attention.
2. One is not able to understand what parts of this important document have been updated by the Council. There should be an explanatory note prepared by the Council to clarify this for all interested parties.
3. The Council should answer the Inspector’s question, however from our review of the evidence provided by TWBC it demonstrates that the Council did not engage with any of its neighbouring authorities “*constructively, actively and on an ongoing basis*”<sup>2</sup> on cross boundary strategic matters from the commencement of preparing the Local Plan to submission of the Local Plan to the Secretary of State for examination.
4. There is no evidence of approaches to neighbouring authorities having been made prior to the detailed proposals for allocation of specific sites in the Regulation 18 Draft Local Plan (2019)<sup>3</sup> which was issued following the review by TWBC of all sites submitted in response to the call for sites.

---

<sup>1</sup> CD 3.132a

<sup>2</sup> Section 33A of the Planning and Compulsory Purchase Act 2004, as inserted by section 110 of the Localism Act 2011 (2) (a)

<sup>3</sup>CD 3.9

5. The 'Consultation Statement for Submission Local Plan (Part 2 of 2) Summaries of Main Issues Raised at Regulation 19 dated October 2021<sup>4</sup> claims that *"TWBC is notably different from TMBC in that it has both recognised and considered potential unmet housing needs from SDC, tested it via its SA/SEA and has continued to engage with SDC to seek to understand and take on board its position. This is set out in its updated DtC Statement"*. It appears however that there was not a signed SOCG in place with Sevenoaks District Council at this late stage of the process and the NPPF is clear that a signed SOCG is required by the time of the submission of the Local Plan and that TWBC failed to meet its legal requirement to cooperate with Sevenoaks District Council.
6. We set out in this hearing statement and our representations the serious shortcomings of TWBC's Strategic Flood Risk Assessment (SFRA) and its failure to apply an NPPF compliant sequential test when considering flood risk in the Borough. This is relevant to the Duty to Cooperate as the current and future impacts of climate change and flood risk at Paddock Wood should have resulted in the avoidance of proposed development in this location on at least the same level as the Green Belt and AONB designations due to the threat of climate change. The NPPF explains<sup>5</sup> that *"all plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this ,and manage any residual risk"*. It is unclear how and when TWBC considered the risk of climate change and flood risk when selecting its preferred development strategy and sites.

**Q2. Likewise, how did the Council approach strategic decisions about meeting employment needs? Were options explored with duty to cooperate partners which sought to meet needs without releasing Green Belt land or requiring major development in an AONB? If so, where is this set out?**

**PWTC Response:**

7. The Council should answer this question. There is to our knowledge no Duty to Cooperate evidence provided by TWBC that demonstrates the exploration of meeting employment needs without releasing Green Belt land or land in the AONB.

---

<sup>4</sup> CD 3.134b

<sup>5</sup> NPPF Paragraph 161

**Q3. Paragraph 27 of the NPPF states that in order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. Has a signed statement of common ground been prepared with Sevenoaks District Council, as required by the Framework?**

**PWTC Response:**

8. It appears that there is not a signed SOCG in place with Sevenoaks District Council at this late stage of the process and the NPPF is clear that a signed SOCG is required by the time of the submission of the Local Plan and that TWBC has failed to meet its legal requirement to cooperate with Sevenoaks District Council.
9. It is important that the whole of Paragraph 27 of the NPPF is scrutinised as it is relevant and material to the Inspector’s question. Paragraph 27 of the NPPF states that:

*In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.<sup>6</sup>*

10. The NPPF expressly refers to the need for authorities to comply with the SOCG approach set out in the PPG and for it to be made available throughout the plan-making process for the reason of transparency.
11. Planning Practice Guidance (PPG) states that authorities should make any statements of common ground (SOCG) available on their website by the time they publish their draft plan so that communities and stakeholders have a transparent picture of how they have collaborated:

*Authorities should have made a statement of common ground available on their website by the time they publish their draft plan, in order to provide communities and other stakeholders with a transparent picture of how they have collaborated.<sup>7</sup>*

12. This clearly demonstrate that the Local Plan and its policies were not informed by engagement – which is, after all, the entire reason for the Duty to Cooperate as explained in the NPPF: “effective and on-going joint working between strategic

---

<sup>6</sup> NPPF Paragraph 27

<sup>7</sup> Paragraph: 020 Reference ID: 61-020-20190315 <https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation>

*policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy”<sup>8</sup>.*

13. Furthermore, the letter TWBC emailed to neighbouring authorities provided in the Post-Submission Core Documents<sup>9</sup> are all dated as the Pre Submission Local Plan went to consultation. As each letter appears to be an identical copy of the other, with the notable exception of the Tonbridge and Malling BC letter it is unclear exactly what level of engagement took place and what, if any, outcomes and agreements were reached and how these could have possibly influenced the Local Plan’s policies. A letter to SDC is notable by its absence.

**Q4. In the absence of a statement of common ground with Sevenoaks District Council, what evidence can the Council point to in order to demonstrate effective and on-going joint working on strategic cross-boundary matters?**

**PWTC Response:**

14. As we set out in our representations to the Regulation 19 Local Plan, TWBC had relied on a SOCG with Sevenoaks District Council dated 21<sup>st</sup> May 2019 which was in fact signed in support of the Sevenoaks Local Plan which was found unsound.

**Q5. The Duty to Cooperate Statement – Part 1 (Revised November 2021) confirms that Sevenoaks District Council informed Tunbridge Wells Borough Council that it was unable to meet its own housing needs in April 2019. What steps has the Council taken since April 2019 in response to this request? Has the Council engaged constructively, actively and on an on-going basis insofar as the preparation of the Tunbridge Wells Borough Local Plan is concerned?**

**PWTC Response:**

15. We have sought to understand what evidence there is of constructive, active and on-going engagement with Sevenoaks District Council since the commencement of preparation of the Local Plan to submission of the Local Plan to the Secretary of State.

16. In relation to this point, TWBC has also failed to comply with the Town and Country Planning (Local Planning) (England) Regulations 2012<sup>10</sup> which states that:

*“(6) Where a local planning authority have co-operated with another local planning authority, county council, or a body or person prescribed under section 33A of the Act, the local planning authority’s monitoring report must*

---

<sup>8</sup> NPPF Paragraph 26

<sup>9</sup> CD 3.152 (a-e)

<sup>10</sup> <https://www.legislation.gov.uk/uksi/2012/767/regulation/34/made> (see 34(6))

*give details of what action they have taken during the period covered by the report.”*

17. The only TWBC Authority Monitoring Report (AMR) available on TWBC’s website is the 2019-2020 Authority Monitoring Report<sup>11</sup> so it is impossible to determine what Duty to Cooperate monitoring was or was not published in early Monitoring Reports. The 2019-2020 AMR does not detail actions TWBC has taken in relation to the Duty to Cooperate. It simply states that there has been progress on statements of common ground during the year and up to date and that these are set out in the Council’s Duty to Cooperate Statement produced in support of the ‘merging Local Plan’. It states that *“Perhaps the prime strategic matter at present is the capacity of the borough, as well as neighbouring authorities to meet housing needs”* and that *“this is subject to ongoing assessment through the preparation of the new Local Plan”*. It explains that *“it is likely that it is possible to meet its local housing need under the Standard Method, but not the uncapped housing need figure or to contribute to meeting wider housing needs”*.

18. It finally states that

*“Of note, dialogue with Sevenoaks District Council is continuing to clarify whether it will be meeting its own need”<sup>12</sup>.*

19. The above outline of the contents of the Council’s AMR 2019-2020 does not comply with the regulations as there is no detail provided regarding the Duty to Cooperate activities undertaken. Simply stating that there has been progress on statements of common ground and that Sevenoaks DC is continuing to clarify whether it will meet its own development needs is not sufficient detail to comply with the regulations.

**Q6. Planning Practice Guidance advises that local planning authorities are not obliged to accept needs from other areas where it can be demonstrated that it would have an adverse impact when assessed against policies in the Framework.<sup>13</sup> How has the Council considered the likely possible impacts of accommodating unmet housing needs from elsewhere as part of the Plan’s preparation? What does this show and how have the results been shared and/or discussed with duty to cooperate partners?**

**PWTC Response:**

20. TWBC should answer this question however it is unclear from the Sustainability Appraisal and DtC evidence whether TWBC has considered the likely possible impact of unmet housing needs, any detail of what these results showed and

---

<sup>11</sup> [https://tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0012/385788/AuthorityMonitoringReport2019-20accessible.pdf](https://tunbridgewells.gov.uk/_data/assets/pdf_file/0012/385788/AuthorityMonitoringReport2019-20accessible.pdf)

<sup>12</sup> CD 3.56

<sup>13</sup> Paragraph: 022 Reference ID: 61-022-20190315

whether these were shared or discussed with DtC prescribed bodies, when they were shared and what the outcome of these discussions were.

**Q7. Has the Council been approached by other strategic policy-making authorities to accommodate any unmet needs in the Tunbridge Wells Borough Local Plan? What were the outcomes of these discussions?**

**PWTC Response:**

21. As these matters are not considered by a properly constituted committee of the Council with published agendas and minutes but instead by a working group which meets in private and does not publish formal minutes, there is no evidence of any such discussions having taken place nor of the results of such discussions. Consequently the Council has failed *'to provide communities and other stakeholders with a transparent picture of how they have collaborated'*<sup>14</sup>
22. By comparison Tonbridge and Malling's Local Plan falls under their Planning and Transportation Advisory Board and Sevenoaks District Council's Local Plan falls under their Development & Conservation Advisory Committee, both committees having terms of reference, meetings that residents can attend (or view on line) and published minutes.

**Q8. Does the Plan seek to meet any unmet housing needs from elsewhere? If not, what are the reasons for this and is it justified?**

**PWTC Response:**

23. The Submission Local Plan does not provide any certainty on the topic of potential unmet need from neighbouring authorities. It is quite unbelievable that TWBC can be ambiguous and still not have resolved this key matter in its submission Local Plan. We include the three key references paragraphs from the Local Plan where unmet housing needs are mentioned in the Local Plan. One would expect Policy STR1 (The Development Strategy) to provide absolute certainty on this matter however it is silent and the supporting text in the Local Plan is ambiguous. The three key references to unmet housing need in the Local Plan are provided below:

*"In addition to seeking to meet the borough's housing needs, the NPPF expects councils to also take into account any unmet housing needs from neighbouring areas. Adjoining councils are generally also seeking to meet their own housing needs. However, the position for Sevenoaks District Council is unclear. It was not proposing to wholly meet its housing need (with a shortfall of 1,900 dwellings), although this is likely to be further tested."*<sup>15</sup>

---

<sup>14</sup> Paragraph: 020 Reference ID: 61-020-20190315 <https://www.gov.uk/guidance/plan-making#maintaining-effective-cooperation>

<sup>15</sup> CD 318 Paragraph 4.12

*Given that there may still be a prospect of some unmet needs arising (and notwithstanding that the constraints applying to Sevenoaks district apply similarly to this borough), it is appropriate to assess the potential for also contributing towards unmet needs from elsewhere, as well as at providing for higher levels of housing need for the borough itself.<sup>16</sup>*

*In practice, aside from the need also to consider the potential for unmet needs elsewhere to be accommodated, it should also be borne in mind that the total capacity of allocated sites would need to be somewhat greater than the above figures, to make allowance for the potential delay and/or non-delivery of a proportion of the sites. In essence, this is to ensure the robustness of the Plan's housing provisions in order to meet the housing need".<sup>17</sup>*

- Q9. The submitted Local Plan proposes two strategic developments (at Tudeley Village and Paddock Wood, including land at east Capel) which are situated reasonably close to the boundary with Tonbridge & Malling Borough. The Statement of Common Ground with Tonbridge & Malling Borough Council<sup>18</sup> includes details of a 'Strategic Sites Working Group' which meets monthly and includes examples of some policy outcomes as a result of this joint working.**

**The Statement of Common Ground also clarifies that Tonbridge & Malling Borough Council has raised 'serious concerns' relating to the transport evidence base, transport impacts, flooding and infrastructure provision. In response, paragraph 5.12 concludes that both authorities will continue working to address these concerns, including where necessary with key infrastructure providers and statutory consultees.**

**How have these strategic cross-boundary matters been considered throughout the plan-making process and has the Council engaged constructively, actively and on an on-going basis in addressing them?**

**In answering this question, has the Council's approach been consistent advice contained in the Planning Practice Guidance? It states that Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates or are not relying on the Inspector to direct them. If agreements cannot be reached, Planning Practice Guidance advises that plans may still be submitted for examination, but, states that comprehensive and robust evidence of the efforts made to cooperate, and any outcomes achieved, will be required.**

---

<sup>16</sup> CD 318 Paragraph 4.13

<sup>17</sup> CD 318 Paragraph 4.18

<sup>18</sup> CD 3.132c(iv)



**PWTC Response:**

24. We seriously question the robustness of evidence that TWBC has discharged its Duty to Cooperate with Tonbridge & Malling Borough Council. The SOCG between these authorities does not provide sufficient evidence for one to conclude cooperation has been active ongoing and constructive from commencement of the plan-making process to submission of the Local Plan to the Secretary of State.
25. For example, the SOCG explains that officers attended and are active participants in the monthly TWBC “Strategic Sites Working Group” However, when one refers to Appendix J1 (TWBC Duty to Cooperate engagement record for the Strategic Sites Working Group – Meeting / correspondence log) the details of these meetings are extremely limited including a lack of detail of which organisations attended which meetings and any concrete outcomes which one would expect to see.
26. In respect of the ‘Autumn 2020 workshops’ held regarding the masterplanning work for Paddock Wood which TWBC relies on in the SOCG to demonstrate that the DtC has been discharged, these workshops were at the very early stages of this process. Feedback from this supposedly informed the preferred option, however there is nothing to suggest that input from the community workshop was taken on board by the consultants and TWBC. There were no opportunities to comment again on the preferred option, other than through the making of representations to the Local Plan. This ‘masterplanning’ process has been disappointing to the local community and PWTC and should not be relied on as evidence of effective cooperation between the two authorities.
27. We understand that the Strategic Sites Working Group did not first meet until September 2019 when the Draft Local Plan commenced consultation from 20th September 2019.
28. It is therefore unclear how this working group could have, in any way, contributed to the policy outcomes in the Draft Local Plan and the decisions leading to the allocation of the strategic sites.

**Q10. The Statement of Common Ground with Kent County Council (Highways) refers to the preparation of a Transport Assessment Addendum (dated September 2021) and a second Addendum dated October 2021. It then concludes that the Council and Kent County Council agree to continue working together over the coming weeks and months and will seek to update their positions through a further statement of common ground ‘prior to the examination’**

**What is the latest position regarding 1) the completion, publication and consultation on this evidence and 2) the statement of common ground?**

**PWTC Response:**

29. This further illustrates that TWBC has not taken its legal requirements in relation to the Duty to Cooperate seriously and has failed to properly engage and work constructively with its DtC prescribed bodies on key matters including

transportation. The Inspector and other parties should not have to ask what the last position is regarding the completion, publication and consultation is on Transport Assessment evidence at the current stage of the process. In terms of consultation on the Transport Assessment Addendum, we were not aware of the ability to comment on this document and request the ability to do so.

30. The scale of the proposed urban extension to Paddock Wood will , in the view of or PWTC, place intolerable strain on the local road network which was designed for a small town, linked by country lanes to adjacent villages.
31. The Inspector should not have to ask what the latest position is with an SOCG between the authority and Kent County Council – this should have been submitted with the Local Plan and transport matters should have been resolved well in advance of the Local Plan being submitted.

**Q11. How does the preparation of additional highways evidence and further dialogue with the County Council demonstrate compliance with the duty to cooperate, which relates to the preparation of the Plan and thus cannot be rectified post-submission?**

**PWTC Response:**

32. Please see our response to Question 10. It demonstrates failure to comply with the requirements of the Duty to Cooperate and the attempt of TWBC to rectify critical transport matters post-submission demonstrating that the Local Plan is not legally compliant and unsound.

**Q12. Has the Council engaged with all relevant local planning authorities, county councils and other prescribed bodies in the preparation of the Plan?**

**PWTC Response:**

33. TWBC should respond to this question.

**Q13. Has the Duty to Cooperate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to advice contained in the National Planning Policy Framework (the 'Framework') and the National Planning Practice Guidance (the 'PPG')?**

**PWTC Response:**

34. It is clear from our responses in this section and in our representations made to the Regulation 19 Local Plan that TWBC has failed to discharge its legal Duty to Cooperate, failed to comply with the NPPF and failed to have regard to the PPG. The Local Plan should not proceed past this first hurdle of the Stage 1 Examination on Duty to Cooperate matters alone. We hope that the Inspector reaches this conclusion.

## **ISSUE 2 – HABITATS REGULATIONS ASSESSMENT ('HRA')**

**Q1. What is the justification for the 7km 'zone of influence' used in the HRA and Local Plan Policy EN11? Does it continue to represent an appropriate distance for considering recreational pressure?**

### **PWTC Response:**

1. The evidence that the Council and its consultants are relying on to justify the 7km 'zone of influence' relating to the Ashdown Forest SAC and SPA, is woefully out of date having been prepared in 2016 some five years before the submission of the Local Plan and pre-pandemic.
2. The HRA appears to simply accept the 7km without any critical consideration of the evidence used to justify this distance and whether the evidence should be considered as up to date and robust. There is no mention of the pandemic within the HRA despite there being evidence at the time of the report that people have been using Ashdown Forest at increased levels during the pandemic.

*"An increase in recreational pressure due to the implementation of the Tunbridge Wells Borough Local Plan is therefore a potential concern for the populations of bird species which the SPA is designated for".<sup>19</sup>*

*"The screening for this HRA report was undertaken considering the core recreational catchment of 7km that has been agreed upon for Ashdown Forest SPA / SAC by surrounding authorities and Natural England, based on a visitor survey conducted by Footprint Ecology in 2010 (the results of visitor surveys are discussed further in the Appropriate Assessment section on recreational pressure). In summary, the 2010 survey concluded that visitors to Ashdown Forest originating from beyond 7km distance to the European site, made a negligible contribution to the overall on-site recreational footprint, and thus the core catchment boundary was set at 7km. That was verified during an update survey in 2016."<sup>20</sup>*

3. The 'Recreational Impact Statement of Common Ground for Ashdown Forest'<sup>21</sup> states that:

*"In order to understand the pattern and origin of visitors to Ashdown Forest visitor surveys have been conducted in 2008 and 2016 and this information will be updated through monitoring and surveys in the future"*

---

<sup>19</sup> CD 3.92a Page 18

<sup>20</sup> CD 3.92a Page 18

<sup>21</sup> CD 3.144

In terms of how frequently monitoring will be undertaken it states:

*“The SPA Monitoring Strategy identifies that a visitor survey will be undertaken every five years. Quantitative monitoring may be undertaken throughout the year, such as car park counts.”<sup>22</sup>*

4. As the previous ‘update survey’ was undertaken in “late spring / early summer 2016”<sup>23</sup> one would expect a visitor survey to have been undertaken in 2021 however there is no reference to this in the HRA or the Local Plan.
5. In fact the HRA does not even mention the ‘Statement of Common Ground for Ashdown Forest’ so it would appear that the consultants may not even have been aware of this important SOCG as they prepared the HRA which is concerning.
6. The Ashdown Forest Vision & Management Strategy<sup>24</sup> states in its introduction that use of the Forest has increased during the pandemic:

*“Use of the Forest by the public has grown steadily in recent years and monitoring suggests 1.4 million visits were made during 2016. The number of visits increased greatly during the Coronavirus pandemic of 2020/21 with the Forest remaining open throughout challenging lockdowns.”*

7. There are a number of local newspaper articles which refer to the increase of the use of the Forest and cars (parking) during the pandemic. For example, an article in ‘Sussex World’<sup>25</sup> entitled ‘Coronavirus: Ashdown Forest full of visitors on Mother’s Day despite social distancing warning’ reported on 23<sup>rd</sup> March 2020 that the Forest was extremely busy.



Visitors flock to Ashdown Forest on Mother's Day despite social distancing warning. Picture: Eddie Howland

<sup>22</sup> CD 3.144 Footnote 3

<sup>23</sup> CD 3.145 Page 1

<sup>24</sup> [https://www.ashdownforest.org/home/docs/AshdownForestVision2021-31\\_002.pdf](https://www.ashdownforest.org/home/docs/AshdownForestVision2021-31_002.pdf)

<sup>25</sup> <https://www.sussexexpress.co.uk/news/people/coronavirus-ashdown-forest-full-of-visitors-on-mothers-day-despite-social-distancing-warning-2505646>

8. There are a number of agreements within the ‘Recreational Impact Statement of Common Ground for Ashdown Forest’ where it appears TWBC has not followed within the preparation of its Local Plan and supporting evidence including the HRA which we summarise below with our comments after each.

*“d) Based on current evidence it is agreed that 7km remains the most appropriate distance for a strategic zone that all partners could support in principle as the 2016 visitor survey shows that this would capture the majority of frequent visitors to Ashdown Forest. Formal support and adoption of the zone and any attributable tariffs by each authority would be dependent upon the outcomes of their own Strategic Environmental Assessment (SEA) and HRA work for their Local Plan and formal adoption by the relevant Authority.”<sup>26</sup>*

**PWTC Comment:** It is clear in respect of the 7km zone of influence and whether or not this is an appropriate distance to be adopted by each authority is, according to the SOCG, dependent on each authority’s Local Plan SEA and HRA and then for the authority to decide. In the case of TWBC. Therefore there is a ‘circular’ problem with TWBC’s approach as it relies on the SOCG to justify that 7km is appropriate whereas the SOCG actually puts the onus on TWBC’s own SEA and HRA as the key evidence base. Looking at TWBC’s SEA it does not consider 7km in any detail or present reasonable alternatives to this distance. Like the HRA it relies wholly on the 2016 Visitor Survey to justify the approach of the Local Plan policy. We include the sections of the Local Plan here for ease of reference:

*“The Ashdown Forest SPA is vulnerable to recreational pressure because of the risk of reducing the breeding success of nightjar and Dartford warbler, which are ground nesting birds. To mitigate this, all development that results in a net increase in dwellings within a prescribed 7km zone of influence must comply with the strategic solutions outlined in Local Plan policy EN11. However, the nearest substantial settlement in Tunbridge Wells Borough (Speldhurst) is over 7km away and a visitor survey of the Ashdown Forest carried out in summer 2016 found that a very small proportion of the visitors to the Ashdown Forest are from the borough.”<sup>27</sup>*

*“For these reasons, it can be concluded that that the Local Plan will not have a significant adverse effect upon the Ashdown Forest (either alone or in combination with other plans).”<sup>28</sup>*

*e) It is recognised there might be for each authority considerations beyond any agreed strategic zone but that is a matter for each authority to consider and justify, as the competent authority, as part of their own SEA/ HRA work.*

---

<sup>26</sup> CD 3.144 Paragraph 12d

<sup>27</sup> CD 3.130a Paragraph 3.2.8

<sup>28</sup> CD 3.130a Paragraph 3.2.9

**PWTC Comment:** As stated already, there is no evidence of TWBC considering or justifying its approach to the Ashdown Forest zone of influence beyond referring back to the 2016 Visitor Survey which is out of date.

**Q2. Policy EN11 suggests that the 7km figure may be subject to revision. Why and when is that likely to occur?**

**PWTC Response:**

9. It is unclear from the Local Plan Policy wording why or when a revision is likely to occur. However, TWBC proposes that any changes to the zone of influence will take place through a SPD. This is clearly an attempt to avoid the need to address this important issue of the need for up to date Visitor evidence by proposing that it is handled through an SPD which, unlike a DPD, does not require independent Examination and would not form part of the Development Plan for TWBC.

**Q3. As it stands, what is required of development proposals within 7km of the Ashdown Forest Special Protection Area ('SPA') and Special Area of Conservation ('SAC')? Are the necessary requirements sufficiently clear to developers, decision-makers and local communities?**

**PWTC Response:**

10. We have a number of points in response to this question:

- The map provided of the zone of influence is not clear enough to identify specific properties.
- For the definition of 'major development' one must look in the glossary.
- The policy refers to 'proposals for major development within or adjacent to, the zone of influence'. What is considered 'adjacent to'?
- It is unclear what contributions the SAMMs and SANGs Strategy require from different types of development.

**Q4. Where contributions to Strategic Access Management and Monitoring ('SAMM') and Suitable Alternative Natural Greenspace ('SANG's) are required, how will the Council ensure that the necessary mitigation is provided?**

**PWTC Response**

11. This is currently unclear in the Local Plan.

**Q5. The HRA concludes that there will be no adverse effects upon the integrity of the Ashdown Forest SPA/SAC as a result of increased atmospheric pollution or recreational pressure resulting from the submitted Plan. Is this conclusion reasonable and justified by appropriate evidence?**

**PWTC Response:**

12. In terms of ‘recreational pressure’ we have set out in our above responses that this has been based on out of date evidence and lack of required analysis in the SEA and HRA.

### **ISSUE 3 – SUSTAINABILITY APPRAISAL**

**Q1. Option 11 in the *Sustainability Appraisal of the Local Plan (Version for Submission)*<sup>29</sup> tests a growth strategy which includes an additional 1,900 dwellings (equivalent to the need identified by Sevenoaks District Council in April 2019). What were the outcomes of this assessment and how did they inform the preparation of the Plan?**

**PWTC Response:**

1. We have not been able to identify any description of the outcomes of the assessment of TWBC meeting unmet needs from Sevenoaks. The one option in the SA that does test this level of housing (1,900) is 'Growth Strategy 11: Uncapped Need + Unmet Need'<sup>30</sup>. There is a table (Table 23) of the SA that sets out the scores for this growth strategy however there is no detailed write up of the outcomes of the assessment. We reviewed the Development Strategy Topic Paper for more insight into this and it appears to reveal that 'Growth Strategy 11' was not seriously considered by TWBC as it simply says it assessed 'Growth Strategy 11' and nothing further and that there was no further consideration of this option for the distribution of development but that five options have, taking elements of different ones, these have been expanded upon and refined for the purposes of informing the further iteration in the form of the Pre-Submission Local Plan. This description provides no clarity as to if or why certain options were taken forward or which 'elements' of different options were included.
2. This point alone illustrates that the SA is not reliable and therefore that the Local Plan Examination should not proceed any further.

*"There has also been further consideration of the range of options for the distribution of development. Whereas the Draft Local Plan strategy stemmed from a consideration of five options – though taking elements of different ones, these have been expanded upon and refined for the purposes of informing the further iteration in the form of the Pre-Submission Local Plan."*

<sup>31</sup>

**Q2. Does Option 11 test the minimum housing requirement plus 1,900 dwellings to help meet unmet needs from elsewhere, or an alternative, higher figure? What is the justification for this?**

---

<sup>29</sup> CD 3.130a

<sup>30</sup> CD 3.130a (Table 23)

<sup>31</sup> CD 3.16 Paragraph 6.30



**PWTC Response:**

3. It is unclear how Option 11 was developed, why it was tested or what the outcomes were. The Local Plan states that the standard method housing figure is 678 dwellings per annum equating to 12,200 dwellings which is the minimum housing target put forward in Policy STR1. However, Option 11 tests an ‘uncapped’ need of 741 dwellings per annum plus 1,900 unmet need. This equates to 847 dwellings per year.
4. If TWBC were to test its stated housing target plus 1,900 of unmet need from Sevenoaks then this would equate to approximately 784 dwellings per year.
5. Therefore, any conclusions made about the effects of TWBC meeting unmet needs from other authorities cannot be relied upon as it is based on unreliable information. This further demonstrates that the SA is fundamentally unsound and that the Examination should not proceed any further.

**Q3. Does the Sustainability Appraisal adequately and robustly test a strategy that would contribute towards meeting previously identified unmet housing needs from Sevenoaks?**

**PWTC Response:**

6. No. Please see our response to Question 2.

**Q4. Has the Council, through the Sustainability Appraisal, considered alternative strategies which avoid major development in the High Weald AONB altogether?**

**PWTC Response:**

7. The Council should answer this question; however, it does not appear so. It is difficult to make sense of the SA.

**Q5. Has the Council, through the Sustainability Appraisal, considered alternative strategies which avoid releasing land from the Green Belt?**

**PWTC Response:**

8. The Council should answer this question; however, it does not appear so. It is difficult to make sense of the SA.

**Q6. Does the Sustainability Appraisal adequately and robustly consider alternative distributions of development, such as focusing growth towards existing settlements such as Royal Tunbridge Wells, rather than relying on a new settlement?**

**PWTC Response:**

9. The Council should answer this question; however, it does not appear so. It is difficult to make sense of the SA.

**Q7. Having established the strategy, what reasonable alternatives has the Council considered through the Sustainability Appraisal to the new settlement proposed at Tudeley?**

**PWTC Response:**

10. The Council should answer this question. It is difficult to make sense of the SA.

**Q8. What was the justification for ruling out alternative options in locations such as Frittenden and Horsmonden on transport grounds, but not Tudeley Village?**

**PWTC Response:**

11. The Council should answer this question. It is difficult to make sense of the SA.

**Q9. Does the Sustainability Appraisal adequately and robustly consider reasonable alternative strategies for the size and scale of development proposed at Tudeley Village and Paddock Wood, including land at East Capel? For example, does it consider smaller and/or larger forms of development as a way of meeting housing needs?**

**PWTC Response:**

12. The Council should answer this question; however, it does not appear so. It is difficult to make sense of the SA.

**Q10. Where individual sites are concerned, how did the Sustainability Appraisal determine what were reasonable alternatives?**

**PWTC Response:**

13. The Council should answer this question; however, it does not appear so. It is difficult to make sense of the SA.

**Q11. Are the scores and conclusions reached in the Sustainability Appraisal reasonable, sufficiently accurate and robust to inform the submission version of the Local Plan?**

**PWTC Response:**

14. The scores in the SA are very basic and lack sufficient clarity and depth. As we have set out in our representations and this Hearing Statement, the SA is an unsound and unreliable document which is very difficult to follow.

**Q12. What alternative strategies and/or site allocations does the Sustainability Appraisal consider for the provision of new employment land and buildings?**

**PWTC Response:**

15. The Council should answer this question. It is difficult to make sense of the SA.

#### **ISSUE 4 – OTHER ASPECTS OF LEGAL COMPLIANCE**

**Q1. Has public consultation been carried out in accordance with the Council’s Statement of Community Involvement?**

**PWTC Response:**

1. No. Please see in our responses below

**Q2. Were adequate opportunities made available for participants to access and make comments on the Local Plan, and other relevant documents, in different locations and different formats – i.e. electronically and in person?**

**PWTC Response:**

2. Residents found the online consultation format difficult to understand and complete. Paper forms were available to download or from the Gateway in Tunbridge Wells. Regrettably this effectively excluded anyone not tech savvy, or without transport to Tunbridge Wells.
3. Two public exhibitions were held on evenings in the town at Mascalls Academy School where TWBC officers were available for questions. This location was difficult to access for the elderly and disabled, particularly in the evenings. Other exhibitions were held elsewhere in the borough and officers attended a public meeting at Capel and a public meeting in Paddock Wood. There was significant appetite for more engagement as the meeting in Paddock Wood was rather taken over by Capel residents who attended to raise more issues regarding the proposed allocations in their area.

**Q3. Were representations adequately taken into account?**

**PWTC Response:**

4. PWTC raised its strong concerns and objections with TWBC at the Regulation 18 Local Plan stage (Draft Local Plan) regarding the inadequate evidence and assessment of flood risk matters due to the extensive flood risk existing at Paddock Wood. However, these concerns were never addressed despite the SFRA prepared for the Draft Local Plan being entirely inadequate.
5. The SCI states that:  
*“In assessing responses and the outcome of statutory consultations, the Borough Council will:*

- *after a formal Local Plan consultation, summarise the comments received and its response to them in a consultation statement that will be made available on the Borough Council’s website*<sup>32</sup>
6. However, TWBC has not, as far as we are aware, accurately summarised our representations and has not responded to all of our representations (or otherwise) in its Consultation Statement.
7. The only location we have identified whereby TWBC has ‘summarised the comments’ received is in the Local Plan<sup>33</sup> where it states:

*The main issues raised in response to the Pre-Submission Local Plan included concerns about the following matters:*

- *if there is capacity to assist with unmet housing need from neighbouring authorities;*
  - *the impacts of the development strategy on the Green Belt and Area of Outstanding Natural Beauty, and consistency with national policy;*
  - *the sustainability of the development strategy, specifically with regard to the allocation of strategic sites;*
  - *the appropriateness of the strategic sites in terms of loss of Green Belt,*
  - *infrastructure requirements and mitigations, and delivery programme; the suitability of the proposed site allocations, and of omission sites, for development;*
  - *the consistency of the Development Management Policies with national policy and whether they reflect local circumstances, including matters relating to sustainable design/standards and wider climate change matters, heritage assets, biodiversity net gain, affordable housing, housing for older people, and traveller sites provision.*
8. This summary of ‘main issues raised’ at the Local Plan Regulation 19 Stage is lacking in detail and omits important matters that PWTC and other parties raised.
9. The Consultation Statement for Pre Submission Plan<sup>34</sup> compares poorly with the Issues and Options Consultation where each representation was individually answered, and both the representations and answers were available on the Council’s website in an easy to follow format. However, PWTC felt that given TWBC’s representations on the flood risk issue alone and identifying that the Council’s SFRA had fundamental failures in procedure and the cohesion of the

---

<sup>32</sup> CD 3.55 Paragraph 3.19

<sup>33</sup> CD 3.128 Paragraph 1.23

<sup>34</sup> CD 3.134b

Council’s policy to address the risk of the prospect of planning for development in a flood risk zones that a specific reply was warranted.

10. PWTC dedicated substantial time and resources to responding to the Local Plan consultation and was disappointed to find that little weight was afforded to local knowledge and local concerns. In particular the site by site analysis of flood risk was not commented upon by TWBC. Therefore, PWTC feels that the views and representations of the residents and Town Council were not adequately taken into account by TWBC. Given that the largest amount of proposed development in the Local Plan is at Paddock Wood, we consider that TWBC should have made far greater effort to respond to PWTC’s concerns and representations throughout the plan-making process.

**Q4. Has the Local Plan been prepared in accordance with the Local Development Scheme (‘LDS’)?**

**PWTC Response:**

11. TWBC should answer this question.

**Q5. In what way does the Plan seek to ensure that due regard is had to the aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?**

**PWTC Response:**

12. The Council’s Equality Impact Assessment<sup>35</sup> was undertaken at the ‘Draft Local Plan’ stage in September 2019. It has not been updated following that Draft Local Plan consultation and nor has it been updated following the Regulation 19 stage. It is not listed as a consultation document in the Council’s ‘Consultation Statement’. Given that the Equality Impact Assessment is out of date and was not prepared against the Submission Local Plan, it should not be relied upon.

13. It is unfortunate that TWBC has not prepared an Integrated Impact Assessment (IIA) whereby authorities can undertake an Equalities Impact Assessment as part of a wider assessment and holistic approach of assessing a Local Plan which includes: Sustainability Appraisal (SEA), Community Safety Impact Assessment, Health Impact Assessment.

**Q6. In what ways does the Plan include policies designed to secure that the development and use of land in the area contributes to the mitigation of, and adaptation to, climate change.**

**PWTC Response:**

14. The NPPF<sup>36</sup> is very clear about the approach that local planning authorities must take regarding climate change and flood risk when preparing local plans and strategic policies. However, TWBC has unfortunately failed to comply with the NPPF in respect of its approach to preparing its development strategy. The Council's approach to its Local Plan is particularly incongruous given that TWBC declared a Climate Emergency<sup>37</sup> so one would expect or at least hope the Council would have paid particular attention to the NPPF in relation to Climate Change and Flood Risk given it's declared 'emergency' however this has not been the case as we explain below.

tunbridgewells.gov.uk

Services A-Z News Contact us Accessibility



Home > Environment issues > Climate Change

## Climate Change

### Climate Emergency Declaration

Our climate is changing, and we are facing harmful impacts on our environment, natural habitats and lives in general. In July 2019 Tunbridge Wells Borough Council declared a Climate Emergency and set a commitment to become carbon neutral by 2030.

Full Council in July 2019 (FC29/19) confirmed that:

Tunbridge Wells Borough Council recognises the overwhelming weight of scientific evidence pointing to man-made climate change and the harmful impacts this is having on natural habitats and ecosystems, biodiversity and our lives in general. It notes the early work undertaken to date by the Council including efforts to promote active travel, increase recycling and the reduction of plastic usage in the Town Hall but understands it needs to do more. It recognises that it has a responsibility to take a firm lead on reducing the council's and the wider borough's carbon emissions and in furtherance of this responsibility agrees to:



### TWBC's webpage declaring Climate Emergency (accessed 31<sup>st</sup> May 2021)

15. The NPPF has a great deal to say about climate change and flood risk and the role of planning / plan-making to support the transition to a low carbon future in a changing climate and the need to take full account of flood risk and coastal change including minimising vulnerability and improving resilience of places, converting existing buildings and supporting renewable and low carbon energy and associated

<sup>36</sup> NPPF 'Meeting the challenge of climate change, flooding and coastal change' pages 45-49

<sup>37</sup> [https://tunbridgewells.gov.uk/environment/climate-change#:~:text=Climate%20Emergency%20Declaration&text=In%20July%202019%20Tunbridge%20Wells,FC29%2F19\)%20confirmed%20that%3A&text=Declare%20its%20recognition%20of%20global%20climate%20and%20biodiversity%20emergencies](https://tunbridgewells.gov.uk/environment/climate-change#:~:text=Climate%20Emergency%20Declaration&text=In%20July%202019%20Tunbridge%20Wells,FC29%2F19)%20confirmed%20that%3A&text=Declare%20its%20recognition%20of%20global%20climate%20and%20biodiversity%20emergencies)

infrastructure<sup>38</sup>. Instead of following the NPPF's policy on climate change the Local Plan instead 1) fails to take into the full account of flood risk in the borough by not preparing suitable evidence base and ignoring its evidence base regarding flood risk in Paddock Wood and the north of the borough; 2) seeks to maximise the vulnerability of the areas of the borough already vulnerable to flood risk and future climate change such as Paddock Wood; 3) making the borough less resilient to climate change and flooding and more prone to the risks of climate change by proposing to put development in the highest risk area of the borough in terms of climate change.

16. In terms of planning for climate change the NPPF states<sup>39</sup> the following, however the Local Plan and its evidence fail to take into account the long-term implications of flood risk and instead of relocating vulnerable development and infrastructure the Local Plan proposes to deliver new development in the most vulnerable locations:

- *“Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk”;*
- *“Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure”*

17. The NPPF explains that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*<sup>40</sup>. Inappropriate development includes housing and the NPPF is clear that housing development should be directed away from areas at highest risk. Simply put, why did TWBC select a development strategy that clearly contravenes the fundamentals of national policy?

18. The Council was clearly aware of the significance of the high risk of flooding at Paddock Wood as it states this as one of the Local Plan's key Issues or Challenges, where it states that *“the areas to the north and west of Paddock Wood are particularly prone to flooding”* and that a key issue is *“therefore ensuring that the proposed growth strategy can be accommodated without further harm and risk to areas that are vulnerable to flooding, provide betterment”*. This statement

---

<sup>38</sup> NPPF paragraph 152

<sup>39</sup> NPPF paragraph 153

<sup>40</sup> NPPF paragraph 159

misunderstands national policy which is to avoid directing development to areas at highest risk (whether existing or future) in the first place.

### **Flooding**

**Key issue/challenge: ensuring growth can be accommodated without further risk to areas vulnerable to flooding and, if possible, to provide betterment**

**2.33** Parts of the borough are located in flood risk areas. The Council's Tunbridge Wells Strategic Flood Risk Assessment (SFRA) provides information and guidance on flood risk, as well as identifying the strategic parcels of land across the borough identified to be at risk of flooding. This includes areas to the north and west of Paddock Wood which are particularly prone to flooding. A key issue is therefore ensuring that the proposed growth strategy can be accommodated without further harm and risk to areas that are vulnerable to flooding, to provide betterment.

19. The NPPF explains<sup>41</sup> that *“all plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:*

- a) applying the sequential test and then, if necessary, the exception test as set out below;*
- b) safeguarding land from development that is required, or likely to be required, for current or future flood management;*
- c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and*
- d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations*

20. However, TWBC and its consultants appear to have avoided applying a ‘sequential test’ in respect of the whole borough. This is despite the Strategic Flood Risk Assessment (SFRA – Level 1 & Level 2 combined) (July 2019)<sup>42</sup> stating as its first recommendation: *“The NPPF supports a risk-based and sequential approach to development and flood risk in England, so that development is located in the lowest flood risk areas where possible; it is recommended that this approach is adopted for all future developments within the borough”*<sup>43</sup>.

21. Despite the SFRA consultants recommending that a sequential approach to development and flood risk is utilised for all future developments within the borough, the same SFRA consults explain that the SFRA has not performed the

<sup>41</sup> NPPF Paragraph 161

<sup>42</sup> CD 3.105 (a-b)

<sup>43</sup> CD 3.44 (a-b)



Sequential Test of potential development sites but that it provides a summary at Table 13.1 summarising the flood risk to the potential development sites which can assist with completion of the Sequential Test (see figure below). As it explains at Paragraph 13.1 the SFRA does assess all 472 sites within the borough identified through the SHELAA and Call for Sites process though. The SFRA does not explain why it does not undertake the Sequential Test – were the consultants asked not to undertake it as TWBC may not like the conclusions? It is entirely unclear from the evidence but it explains that the assessments will “assist the Council when they undertake the Sequential Test”.

22. The SFRA states that (see below) “The majority of sites are located within Flood Zone 1”.

## 13 Level 1 assessment of potential development sites with site information

### 13.1 Introduction

A total of 472 sites within the borough were identified from the Strategic Housing and Employment Land Availability Assessment (SHELAA) Call for Sites process (which ran in two parts) and additional submission of sites after the Call for Sites process (number correct as of 15 April 2019). These sites were screened against a suite of available flood risk information and spatial data to provide a summary of risk to each site (see Table 13-1). Information considered includes the flood risk datasets listed below. Indication is provided on the proportion of a given site affected by levels and types of flood risk.

- Flood Zones (present day)
- Future Flood Zone 3a in the 2080s epoch (Higher central and Upper end estimates)
- Risk of Flooding from Surface Water
- Risk of Flooding from Reservoirs
- Areas Susceptible to Groundwater Flooding

The information provided is intended to enable a more informed consideration of the sites following the sequential approach. This should be used to determine whether more detailed assessment of sites is required as part of a Level 2 SFRA to further identify those that should be taken forward as potential development allocations.

### 13.2 Sequential testing

The SFRA has not performed the Sequential Test of potential development sites. However, Table 13-1 summarises the flood risk to the potential development sites which can assist with completion of the Sequential Test. The majority of sites are located within Flood Zone 1 and where part of the site is located within higher flood risk zones, a large number remain predominantly within Flood Zone 1. However, the majority of sites are shown to be at risk from surface water flooding (indicated by the RoFSW extent being present in the site).

Inclusion of SHELAA sites in the SFRA does not mean that development can be permitted without further consideration of the Sequential Test. The required evidence should be prepared as part of a Local Plan Sustainability Appraisal or alternatively, it can be demonstrated through a free-standing document, or as part of strategic housing land or employment land availability assessments. NPPF Planning Practice Guidance for Flood Risk and Coastal Change describes how the Sequential Test should be applied in the preparation of a Local Plan. The assessments undertaken for this SFRA will assist the Council when they undertake the Sequential Test.

23. As the SFRA concluded that the majority of sites in the SHELAA and Call for Sites process are located within Flood Zone 1, how is that the most strategic growth was directed towards Paddock Wood which has the highest level of flood risk in the borough? As PPG sets out in its guidance for the application of the Sequential Test for Local Plan preparation (and as stated in the NPPF) if development can be steered towards areas in Flood Zone 1 then the sequential test is passed and it does not need to be examined further and an exceptions test is not required.
24. Nowhere in TWBC’s evidence can we find a statement confirming that a Sequential Test was undertaken by the Council. The Local Plan itself makes no mention of a Sequential Test being undertaken as required by the NPPF. This is a fundamental flaw in the Local Plan process and evidence base and the Local Plan can clearly not continue until such a study is undertaken and consulted on.
25. Despite no Sequential Test being undertaken, the SFRA undertakes a Level 2 Assessment of strategic parcels as *“potential development locations have been provided by the council to be assessed in the SFRA”*. Twelve strategic parcels were assessed which presumably means that regardless of what a Sequential Test may have concluded, that the twelve parcels had been pre-determined as potentially preferred sites by TWBC. There is no summary map indicating where the development parcels are located or how they were selected. The evidence simply jumps from the recommendation that a Sequential Test be undertaken by TWBC to an assessment of twelve strategic development parcels.

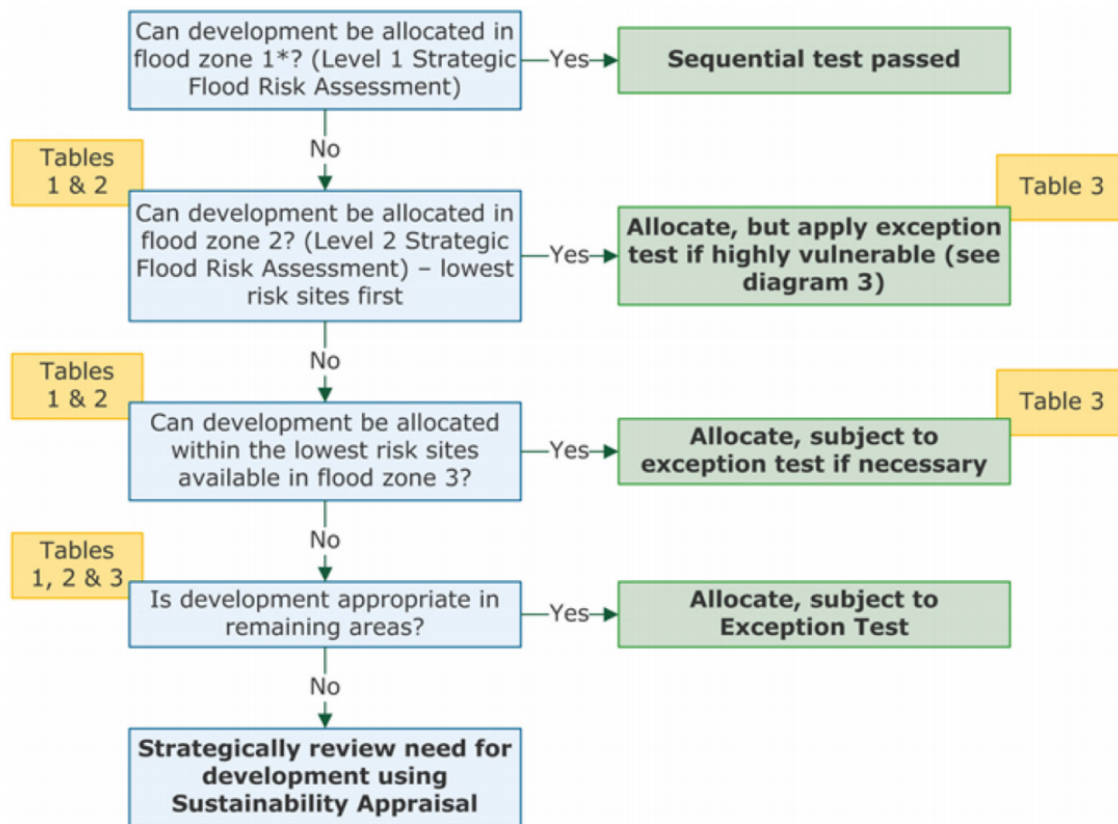
## 1 Level 2 Assessment of strategic development parcels

### 1.1 Introduction

The SFRA forms an integral part of Tunbridge Wells Borough Council’s evidence base for the production of a new Local Plan, in terms of identifying locations for development and preparation of flood risk policies in the Local Plan, with one of the objectives of an SFRA being to help inform site allocations so they are in accordance with the NPPF. Potential development locations have been provided by the council to be assessed in the SFRA. The Level 2 SFRA considered a refined set of parcels (grouping of sites from the Call for Sites process, including some received after this process had ended) supplied by the council subsequent to the finalisation of the Level 1 SFRA. The parcels taken forward and description of the refinements are recorded in Table 1-1. Note that parcels numbered 8 (named East of Queen Street Parcel) and 10 (named Playing Pitches) are excluded from the assessment as they are not allocated for built development, but rather intended for either biodiversity, landscaping or recreation land uses.

#### **SFRA Level 2 Assessment of strategic development parcels**

Diagram 2: Application of the Sequential Test for Local Plan preparation



[PPG Application of the Sequential Test for Local Plan preparation](#)

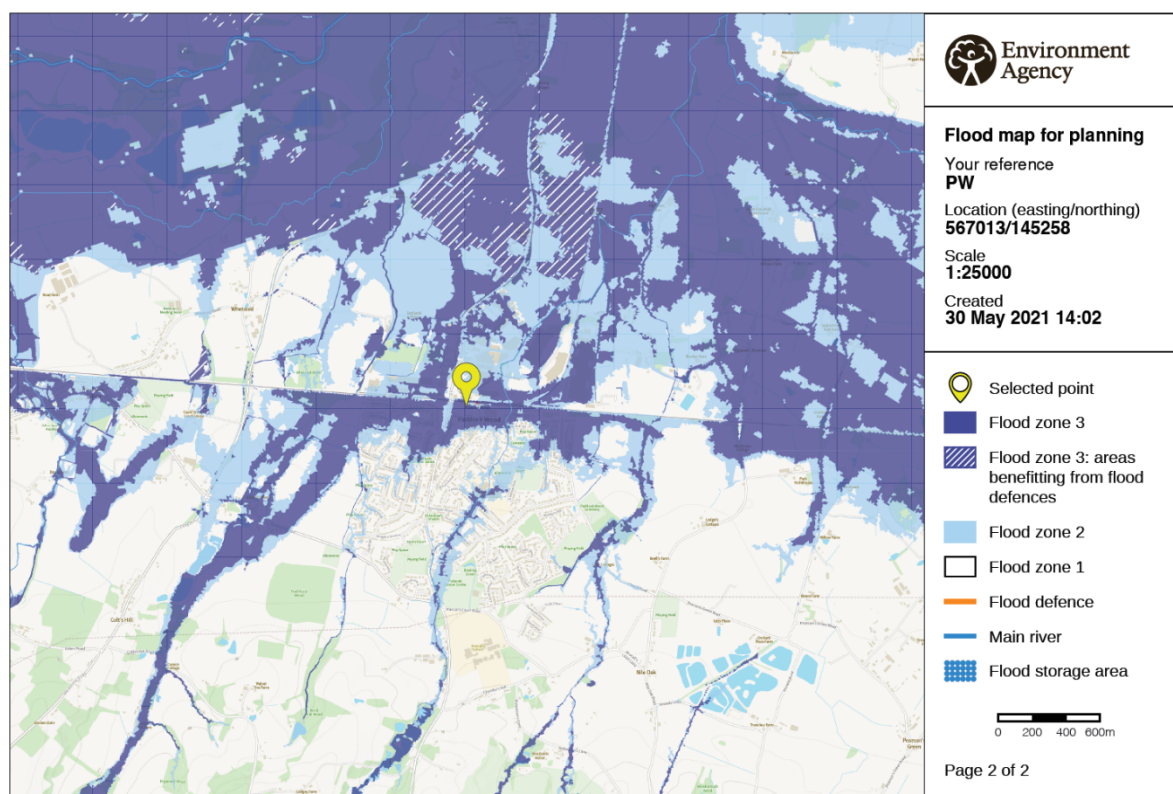
26. The Council’s Development Strategy Topic Paper explains that, in relation to Sequential Testing, *“the aim is to steer development to Flood Zone 1. Where there are no reasonable available sites in Flood Zone 1, guidance states that LPAs should take into account the flood risk vulnerability of land uses and consider reasonable available sites in Flood Zone 2”*<sup>44</sup>. It goes onto state that the Level 1 SFRA considers how the sequential test should be carried out by TWBC in preparing its Local Plan. However this Sequential Test was never undertaken.

27. The Topic Paper states that *“It is accepted that it is often the case that it is not possible for all new development to be allocated that is not at risk from flooding”*<sup>45</sup>. However, this is precisely the role of the Sequential Test as stated in the NPPF to direct development to Flood Zone 1 which TWBC has blatantly ignored at arriving at its conclusion that it should locate its strategic growth in the area of the borough with the highest flood risk.

<sup>44</sup> CD 3.64 paragraph 6.222

<sup>45</sup> CD 3.64 paragraph 6.224

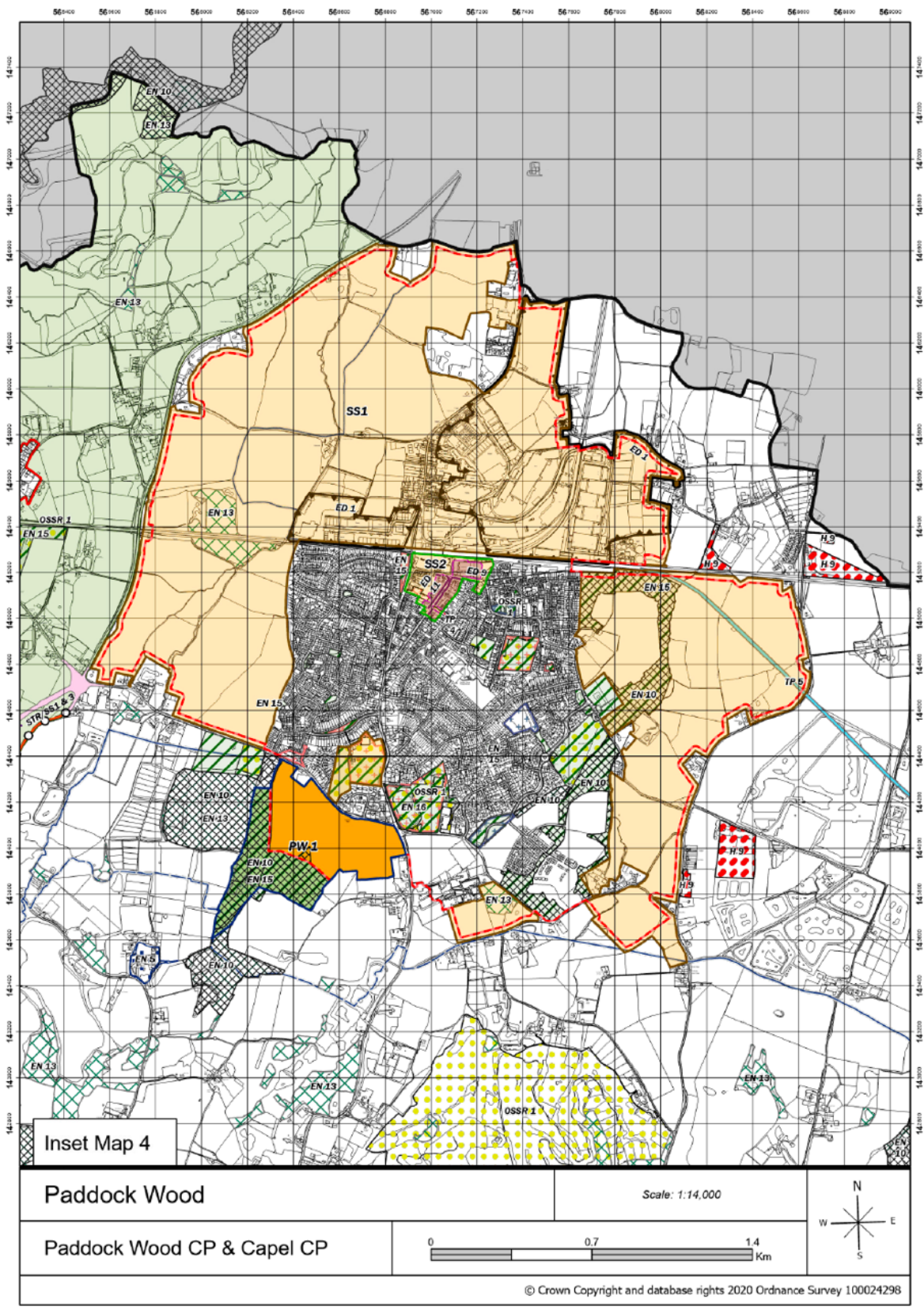
28. It does not take an expert to conclude from looking at the Environment Agency’s ‘Flood map for planning’<sup>46</sup> that Paddock Wood is located within Flood Zones 2 and 3 and is an inappropriate location for strategic development. The yellow marker on the map has been dropped at Paddock Wood Railway Station which we have clarified as one cannot read the text map showing the name ‘Paddock Wood’ due to the extent of the flood risk covering the town.



**EA Flood Map for Planning (Paddock Wood and surrounding area)**

29. When one compares the EA flood map with that of the inset Policies Map for Paddock Wood (which one must do himself as TWBC has not overlaid the flood risk mapping with the proposed site allocations) it is striking to visualise the correlation of Flood Zone 2 and 3 covering the proposed strategic site allocations at Paddock Wood. With this very simple visualisation it is baffling for one to attempt to comprehend how the Council could have settled on the development strategy it did, selecting Paddock Wood for the location of its strategic growth.

<sup>46</sup> <https://flood-map-for-planning.service.gov.uk/>



Paddock Wood Inset Map

30. Turning to the Local Plan policies which concern Flood Risk, it is considered that these are entirely inadequate to meet the NPPF tests of soundness. We make the following critical observations demonstrating how the Local Plan policies are unsound:

- **Policy STR1 (The Development Strategy):** No mention of flood risk or infrastructure required to attempt to address flood risk in the borough.
- **Policy STR5 (Infrastructure and Connectivity):** The policy does not specify any measures or specific flood risk attenuation infrastructure. It simply states that *“Close liaison is required with Kent County Council as the lead local flood authority and the Environment Agency to ensure that adequate consideration is given to any development in flood prone areas and that appropriate mitigation and compensatory measures are put in place where necessary in accordance with Policies EN25 (Flood Risk) and EN26 (Sustainable Drainage)”*. The policy should provide far more certainty about what flood related infrastructure is going to be provided, when, and by whom rather than just liaising with the flood authorities. It talks about ‘adequate consideration’ being given to any development in flood prone areas – what does the Council even mean by this? We understand that, as of several years ago the Environment Agency no longer has a consultative role regarding development in the Paddock Wood area (as the local waterways and their previous role has now been entirely transferred to Kent County Council as the lead flood risk authority). This policy fails to take into account the recent change in the 2021 Environment Act that gives additional powers to Internal Drainage Boards outside their immediate area of operation to assess flood risk including that arising from areas adjacent to proposed development sites as well as the sites themselves.
- **Policy STR7 (Climate Change):** It is rather shocking to read that the Local Plan’s policy on Climate Change does not mention flooding or how it plans to address its significant flood risks in the borough over the life of the plan. The only mention that comes close is its stated aim of not increasing and reducing surface water runoff: *“not increasing, and wherever possible reducing, surface water runoff through the use of permeable surfaces and Sustainable Drainage Systems”*. This is an inadequate policy to deal with the climate change risks facing the borough particularly in relation to flood risk.
- **Policy STR/SS1 (The Strategy for Paddock Wood, including land at east Capel):** This policy mentions flooding in two places.
  - At (j) it states that *“a Paddock Wood ‘Wetland Park’ to the north of the western parcel (land edged in blue on Map 27), to deliver flood water attenuation and new wetland habitat, and allowing for informal recreation via a network of footpaths and boardwalks”*.
  - At paragraph 13 it states the need to *“Ensure a drainage strategy is in place in consultation with the LPA, Kent County Council, the Drainage*

*Authority, and Southern Water prior to the grant of planning permission for any substantial development on the site*". Having a drainage strategy in place is standard practice for any proposed development site so this policy is effectively meaningless.

- **Policy EN3 (Climate Change Mitigation and Adaptation):** This policy takes the plan no further in respect of specifying how flood risk is addressed. It states under *"Climate change adaptation' that development must incorporate measures that adapt to the impacts of climate change"* and that *"these could include" (2) Reduction in flood risk and provision of infrastructure to protect vulnerable communities and habitats and minimisation of water consumption"*. This policy is ineffective.
- **Policy EN25 (Flood Risk):** Policy EN25 is the Council's proposed development management policy regarding flood risk. It contains within it text which seems to be taken for the most part directly from the NPPF so one should question whether it has any place in the Local Plan. In any case, the policy states that *"The sequential test and exception tests established by the NPPF will be strictly adhered to across the borough"*. Given that TWBC has not undertaken an Exception Test to support the Local Plan it has failed against its own policy.

31. It is important to note MHCLG's changes to the NPPF in relation to flood risk of which there are numerous. The Local Plan did not refer to these proposed changes and whilst they are still only proposed changes to the NPPF there is a clear direction of travel emerging from MHCLG in relation to flood risk which further strengthens and tightens the policies in the NPPF in relation to flood risk. As we have already set out, the Council's approach to flood risk is clearly at odds with the NPPF in its existing and likely future form. MHCLG explains its reasoning behind the proposed changes to the NPPF which are as follows<sup>47</sup>:

The changes proposed are in part, an initial response to the emergent findings of our joint review with the Department for Environment, Food and Rural Affairs (Defra) of planning policy for flood risk. The government's [Policy Statement on flood and coastal erosion risk management](#) sets out a number of actions to maintain and enhance the existing safeguards concerning flood risk in the planning system. Informed by this, we will consider what further measures may be required in the longer term to strengthen planning policy and guidance for proposed development in areas at risk of flooding from all sources when our review concludes. The Policy Statement is informed by a number of key consultations and advice:

- Environment Agency's consultation exercise on the updated [National Flood and Coastal Erosion Risk Management Strategy](#)

---

<sup>47</sup> <https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code-consultation-proposals/national-planning-policy-framework-and-national-model-design-code-consultation-proposals>

- results of the government’s [flood and coastal erosion: call for evidence in 2019](#)
  - an [evidence review of the concept of flood resilience](#)
  - advice from the [National Infrastructure Commission](#) and the Committee on Climate Change
  - The Secretary of State for the Environment has [written to Sir John Armitt, Chair of the National Infrastructure Commission](#), about the government’s policies to create a nation that is more resilient to future flood and coastal erosion risk.
- On planning and flood risk, new paragraphs 160 and 161 have been amended to clarify that the policy applies to all sources of flood risk.
  - New paragraph 160(c) has been amended to clarify that plans should manage any residual flood risk by using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management).
  - The Flood Risk Vulnerability Classification has been moved from planning guidance into national planning policy (set out in Annex 3 and referred to in paragraph 162). It is considered that this classification is a key tool and should be contained in national policy.
  - New paragraph 163 has been amended to clarify the criteria that need to be demonstrated to pass the exception test.
  - New paragraph 166(b) has been expanded to define what is meant by “resilient”.
32. We note that the Council’s SFRA identifies a number of Nitrate Vulnerable Zones (NZVs) covering considerable areas of the borough including Paddock Wood and its surrounding area (within and outside the borough). The SFRA states that these areas are *“at risk from agricultural nitrate pollution...nitrate levels in waterbodies are affected by surface water runoff from surrounding agricultural land entering receiving waterbodies”*.
33. Yet, despite identifying these NZVs the SFRA seems to almost dismiss the seriousness of the NZV designation by saying that the level of contamination will potentially influence the SuDS and should be assessed as part of the design process. We consider this matter of NZVs needs much more careful research and analysis. It is well known from other parts of the country such as Hampshire whereby nitrate mitigation has become perhaps the defining topic for planning and development due to the need to protect the water environment and conserve habitats and species. One of the ways to mitigate the likely significant effects of development is through ensuring development is ‘nutrient neutral’ which is part



of the strategy being employed by local authorities and the Partnership for South Hampshire as it needs to be addressed at a cross-boundary level. More details about the approach being taken in Hampshire can be found on PFSH’s website<sup>48</sup> along with Natural England’s ‘nutrient calculator’ and updated guidance on achieving nutrient neutral housing development<sup>49</sup>.

34. We note that there is no mention of nitrates in the Local Plan despite this NZVs having been identified and designated in considerable parts of the borough including at Paddock Wood where strategic development is planned.

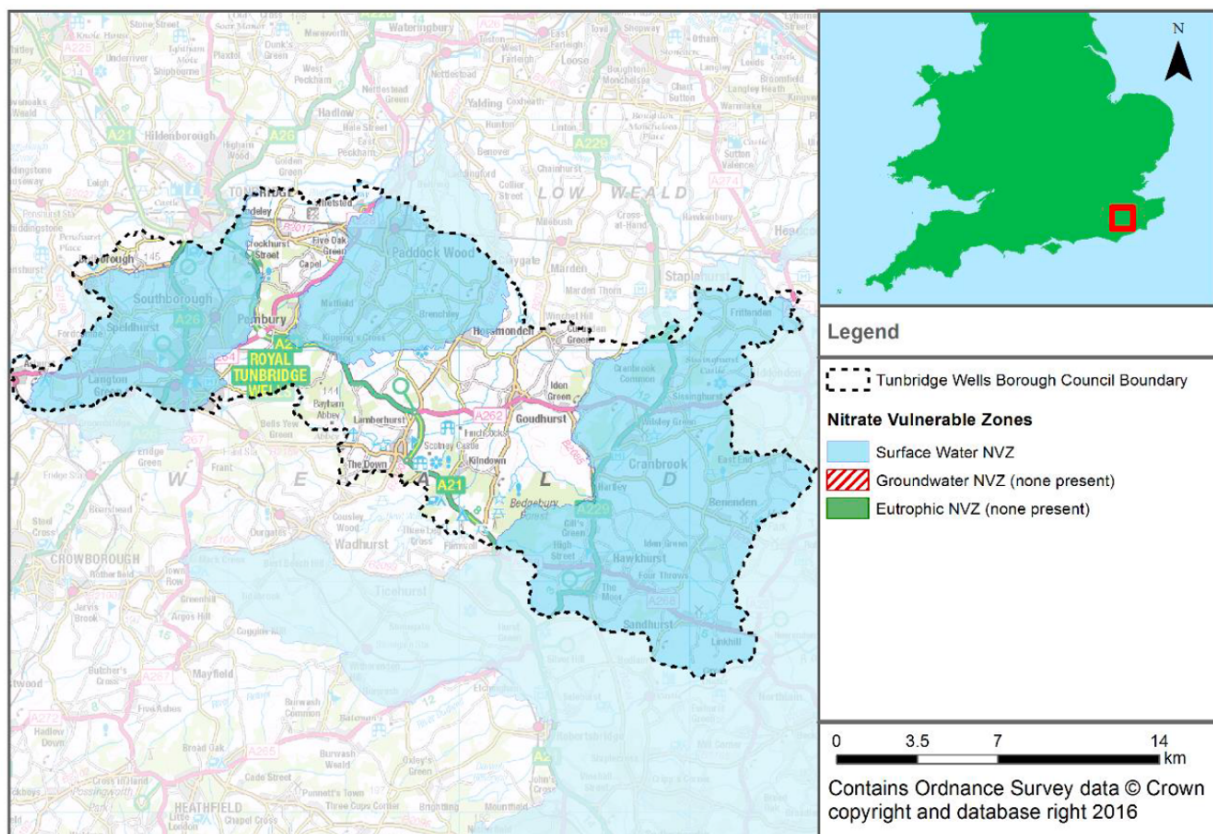
### 9.5.2 Nitrate Vulnerable Zones

Nitrate Vulnerable Zones (NVZs) are areas designated as being at risk from agricultural nitrate pollution. Nitrate levels in waterbodies are affected by surface water runoff from surrounding agricultural land entering receiving waterbodies.

The level of nitrate contamination will potentially influence the choice of SuDS and should be assessed as part of the design process.

Within Tunbridge Wells Borough, there are three surface water NVZs. The locations of these NVZs are shown in Figure 9-5.

Figure 9-5: Nitrate Vulnerable Zones



### SFRA Section on Nitrate Vulnerable Zones

<sup>48</sup> <https://www.push.gov.uk/work/nitrate-mitigation/>

<sup>49</sup> <https://www.push.gov.uk/2020/06/11/natural-england-published-nutrient-calculator-and-updated-guidance-on-achieving-nutrient-neutral-housing-development>

**Q7. Did the Council make available copies of all the submission policies maps, showing any changes that would result from the adoption of the Local Plan?**

**PWTC Response:**

35. TWBC has failed to clarify what changes are being proposed to the existing Policies Map and has failed to show what the resulting Policies Map and designations are for most of the borough. This contravenes TWBC's own Statement of Community Involvement (October 2020) which states that at the Publication State of the Local Plan (Regulation 19) that the Policies Map will be published "*showing any changes that would result from the adoption of the plan, are also published*"<sup>50</sup>
36. The SCI states that following the Regulation 19 stage that "*The Council will consider any points raised during the publicity period and will make minor changes where required. If there are significant issues the Council may withdraw the plan and return to stage 3*"<sup>51</sup>.
37. Unless TWBC can demonstrate that it has shown all the changes to the Policies that would result from the adoption of the plan, it has failed to comply with its SCI and it should run its Regulation 19 stage again to enable all residents and interested parties to respond to its proposed designations throughout the borough.

**END.**

---

<sup>50</sup> CD 3.55 (Table 1)

<sup>51</sup> CD 3.55 (Table 1)