Kent, South London and East Sussex
Neighbourhood Plan Advice Note

Updated: February 2021

Neighbourhood Plans provide an opportunity to deliver multi-functional benefits through linking development with enhancements to the environment. This document sets out the key environmental issues, within our remit, which should be considered.

Together with Natural England, English Heritage and Forestry Commission we have published joint advice on neighbourhood planning which sets out sources of environmental information and ideas on incorporating the environment into plans. This is available at: https://neighbourhoodplanning.org/wp-content/uploads/Environment-Toolkit-20181220.pdf

We also recommend your Plan takes account of relevant Local Planning Authority's policies, plans and strategies including Local Planning Authority's Strategic Flood Risk Assessment, flood risk strategies (https://www.gov.uk/government/collections/flood-risk-management-current-schemes-and-strategies), and the South East River Basin Management Plan (https://www.gov.uk/government/publications/south-east-river-basin-management-plan/)Thames River Basin Management Plan (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/289937/geth0910bswa-e-e.pdf) as appropriate.

The information below explains the key issues we would consider in reviewing your Plan. We aim to reduce flood risk, while protecting and enhancing the water environment.

Flood risk

Development must be safe and should not increase the risk of flooding.

Neighbourhood Plans should conform to national and local policies on flood risk:

If a Neighbourhood Plan is proposing sites for development please check whether there are any areas of Flood Zones 2 or 3 within the proposed site allocations.

You can view a site's flood zone on the Flood Map for Planning on our website: https://flood-map-for-planning.service.gov.uk/

If the proposed allocation is located within Flood Zone 2 or 3 you should consult the Flood Risk and Coastal Change pages of the National Planning Policy Guidance (NPPG): http://planningguidance.communities.gov.uk/blog/guidance/flood-risk-and-coastal-change/

Here you can determine whether the flood risk vulnerability of the proposed development and the flood zone are compatible. In accordance with national planning policy the Sequential Test should be undertaken to ensure development is directed to the areas of lowest flood risk. This should be informed by the Environment Agency's floodmap for planning and the Local Planning Authority's Strategic Flood Risk Assessment (SFRA), if they have one. We recommend you contact the Local Planning Authority to discuss this requirement further.

We would have concerns if development is allocated in this high risk flood zone without the Sequential Test being undertaken.

It is important that your Plan also considers whether the flood risk issues associated with these sites can be safely managed to ensure development can come forward.

We can provide any flooding information which we have available – such as predicted flood levels and historical flood data. Please note that there may be a charge for this information. Please contact our Customers and Engagement Team at ksle@environment-agency.gov.uk for further details.

In addition to the above you should also check with the Local Planning Authority's Neighbourhood Planning team with regards to other sources of flooding (such as surface water, groundwater, sewers and historic flooding) as detailed in their Strategic Flood Risk Assessment (SFRA). The Lead Local Flood Authority (LLFA), now has responsibility for local flood risk management and may hold flooding information that is not identified on our Flood Map.

Climate Change Allowances

The Local Authority's Strategic Flood Risk Assessment should indicate the extent of flood zones with likely climate change.

On 19 February 2016, we published new guidance for planners and developers on how to use climate change allowances: https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances .

Flood Defences

Areas of your Neighbourhood Plan area, or proposed sites, may be given protection by a flood defence/alleviation scheme. Where this is the case the Plan should acknowledge this and identify the level of protection provided (including any climate change allowance). It should be noted that flood defences are intended to protect existing properties and are not to facilitate new development in areas that would otherwise be impacted by flooding. Any assessment of development behind flood defences should consider the impacts of a breach or overtopping. Where it is determined that new development should be behind a flood defence financial contributions may be sought to maintain or improve the structure.

Thames Estuary 2100 (Tidal Defences)

In line with requirements set out in the Thames Estuary 2100 (TE2100) plan, developments in this location will need to demonstrate how the flood defence could be raised in the future to meet the demands of climate change.

No activities on site should preclude access to the flood defence from maintenance or prevent the future raising of flood defences. In some cases we hold technical drawings of flood defence structures which may be of use. To request these you should contact our Customers and Engagement Team at ksle@environment-agency.gov.uk

Ecology

Proximity to watercourse/ Ecology

Main rivers can be viewed on the Environment Agency's map:
https://environment.maps.arcgis.com/apps/webappviewer/index.html?id=17cd53dfc524433980cc333726a56386

We normally require a buffer zone of 8 metres (fluvial) and 16 metres (tidal) between any new development and the top of the bank of the main river. The permanent retention of a continuous unobstructed area is an essential requirement for emergency access to the river for repairs to the bank and for future maintenance and/or improvement works. A buffer between new development and the river wall is also required to ensure no adverse loading which could impact the stability of the channel wall. This buffer zone will help provide more space for flood waters, provide improved habitat for local biodiversity and allows access for any maintenance requirements.

Where development is proposed next to the river we recommend that it includes a green buffer strip alongside the watercourse. Where such a buffer strip does not currently exist, we normally seek that it is established. This is a key way in which we carry out our legal duty to further and promote the ecological and landscape value of rivers and land associated with them. In urban areas, in particular, rivers have

often been degraded by past development, and we expect that any new development should go some way to redress the balance.

The provision of green infrastructure, particularly along rivers, and the inclusion of sustainable drainage techniques can help reduce the risk of flooding. This can also provide recreational and wildlife benefits. Opportunities to incorporate biodiversity in the Plan will be encouraged. In accordance with national policy, any development proposal should avoid significant harm to biodiversity and seek to protect and enhance it; delivering biodiversity net gain. We would not support development proposals if there was shown to be a likely detrimental impact on the water environment.

Water Management and Groundwater Protection

Local level actions and decision making can help secure improvements to the water environment. This is widely known as the catchment-based approach and has been adopted to deliver requirements under the Water Framework Directive (WFD). It seeks to:

• deliver positive and sustained outcomes for the water environment by promoting a better understanding of the environment at a local level; and

• encourage local collaboration and more transparent decision-making when both planning and delivering activities to improve the water environment.

Neighbourhood Plans provide an opportunity to deliver multi-functional benefits through linking development with enhancements to the water environment. Local WFD catchment data can be obtained from: http://environment.data.gov.uk/catchment-planning/RiverBasinDistrict/

Overall deterioration in water quality and promoting improvement in the ecological status of any water body. Actions to achieve this are listed in the Thames River Basin Management Plan (RBMP) and the South East River Basin Management Plan https://www.gov.uk/search?q=River+Basin+Management+Plans

Where appropriate, a WFD Assessment (http://planningguidance.communities.gov.uk/blog/guidance/water-supply-wastewater-and-water-quality/water-supply-wastewater-and-water-quality-considerations-for-planning-applications/) should assess any potential impacts on the watercourse and demonstrate that the required enhancements will be delivered. Any development that has the potential to cause deterioration in classification under WFD or that precludes the recommended actions from being delivered in the future is likely to be considered unacceptable to us.

Groundwater Quality

Development must not cause pollution to the water environment.

Aquifers and Source Protection Zones

Some of your local area, and specific potential site allocations, may be located upon or within aquifers and Source Protection Zones (link below). SPZ 1 is especially sensitive. You might consider these within your Plan and when allocating sites. The relevance of the designation and the potential implication upon development proposals should be seen with reference to our Groundwater Protection guidance:

https://www.gov.uk/government/collections/groundwater-protection

To see if a proposed development is located within a Source Protection Zone, please use our online map: https://www.gov.uk/guidance/groundwater-source-protection-zones-spzs

Land Contamination

You must consider land contamination when preparing your plan. Managing it during development is key to addressing past contamination and preventing further impacts during development.

You can establish if a site may be contaminated in several ways. Your Local Authority may hold a register of sites it knows to be contaminated. A list of potentially contaminated sites can be accessed on the following link:
https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/76-key-documents/198-doe-industry-profiles

We recommend you contact your Local Authority's Environmental Health team who may hold records on known/potential land contamination. Please note our primary concern is with regards to water quality. Your Local Authority's Environmental Health team will advise you on issues related to human health.

Further information can be accessed on the following links:
Guiding principles for the Land Contamination
https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/192-guiding-principles-for-land-contamination-gplc

Model Procedures for the Management of Land Contamination:
https://webarchive.nationalarchives.gov.uk/20140328160926/http:/cdn.environment-agency.gov.uk/scho0804bibr-e-e.pdf

Approach to Groundwater Protection:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Envirnment-Agency-approach-to-groundwater-protection.pdf

Water supply and foul drainage

When allocating sites in you Plan, you will need to consider if the water supply and foul drainage infrastructure can accommodate the development. Your local water company can provide further information about water supply and sewerage capacity.

Surface water drainage

The inclusion of Sustainable Drainage Systems (SUDS) should always be a consideration within any development to reduce the risk of surface water flooding on and off site. The Lead Local Flood Authority, is the main contact for SUDS issues. However, we have interest in SUDS from a groundwater protection perspective and those area of critical drainage.

The collection and dispersal of clean surface water to ground to recharge aquifer units and prevent localised drainage or surface systems flooding in heavy rainfall is encouraged. However, dispersal into the ground through soakaways or other infiltration systems requires a site-specific investigation and risk assessment. Generally, we would accept roof drainage going to soakaway (or other systems), but other surface drainage may need to go through treatment systems or to foul main, for instance vehicle parking. Infiltrating water has the potential to cause mobilisation of contaminants present in shallow soil/made ground which could ultimately cause pollution of underlying groundwater resources. Where contamination is known or suspected, remedial or other mitigating measures will likely be required so that it can be demonstrated that there is no resultant unacceptable risk to Controlled Waters.

We advise applicants to follow our guidance – Groundwater Protection. This is a report that highlights the importance of groundwater and encourages industry and other organisations to act responsibly and improve their practices. This can be found at: https://www.gov.uk/government/collections/groundwater-protection

The design of the drainage systems should be in line with G1, G9, G12 and G13 position statements:
https://www.gov.uk/government/publications/groundwater-protection-position-statements

Infrastructure Delivery

We would recommend that environmental infrastructure, including habitat enhancements, water storage areas, and green space, is taken into account if the Plan looks to fund local infrastructure.

Environmental Permitting Regulations

To see if a proposed development requires an Environmental Permit under the Environment Permitting Regulations please refer to our website:
https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit

Under the Environmental Permitting (England and Wales) Regulations 2016, a flood risk activity permit (FRAP) may be required for work:

- in, over or under a main river;
- within 8m of the bank of a main river, or 16m if it is a tidal main river;
- within 8m of any flood defence structure or culvert on a main river, or 16m on a tidal main river.

Flood risk activities can be classified as: exclusions, exemptions, standard rules or bespoke. These are associated with the level of risk the proposed works may pose to people, property and the environment. Local Authorities should advise developers to refer to the flood risk activity permit section of gov.uk for further information.

Please note

This document is a response to a Neighbourhood Plan consultation and does not represent our final view in relation to any future planning application made in relation to any site.

You should seek your own expert advice in relation to technical matters relevant to any planning application before submission.

If you have any questions please contact the Kent and South London Sustainable Places team:

kslplanning@environment-agency.gov.uk