

# Chapter 6

## Natural Environment



## Introduction

**6.1** Wealden district is predominantly rural and one of its greatest resources is its distinctive and valued natural environment. Its qualities consist of unspoilt villages and coast, set within attractive countryside and a range of flora and fauna helping to give Wealden its strong sense of place and identity. Wealden's natural environment provides a diverse range of benefits to people, nature and the economy, supporting the health and wellbeing of residents and visitors, biodiversity, food and energy production, flood control, climate change mitigation and adaptation, pollution and much more.

**6.2** The district's natural environment is considerably diverse. It ranges from the highly wooded High Weald Area of Outstanding Natural Beauty (AONB), (which as of 22nd November 2023 should now be referred to as a National Landscape) to the rolling chalk hills of the South Downs National Park, which is also a nationally designated landscape. In between this, we have the low weald landscape and also the internationally important Pevensey Levels. Our towns and villages that sit within our landscape and traditional land use patterns and forms of built development also provide a strong and distinctive sense of place.

**6.3** The presence and distribution of different landscape types, natural habitats and land-use are influenced by underlying geology, soils, landform and drainage. Land-use across the district is predominantly pasture, with areas of arable cropping. Between the land that is farmed there is a visible distribution of semi-natural land cover. These include woodlands, heathland, freshwater habitats, wetlands and marshes and grassland habitats. The district is heavily wooded, particularly in the north, within the High Weald. Natural England's woodland inventory shows that 61% of all woodlands in the district are Ancient Woodland<sup>57</sup>.

**6.4** The importance of this range of habitats for biodiversity is recognised through international, national and local designations covering around 24% of the district.

**6.5** Both Ashdown Forest and the Pevensey Levels are internationally designated. Ashdown Forest is a Special Area of Conservation, designated as one of the largest continuous blocks of lowland heath in the southeast of England, and is also a Special Protection Area, due to its breeding populations of Dartford warbler and nightjar. Pevensey Levels is a Ramsar site and also a Special Area of Conservation due to it being one of the largest and least fragmented low-lying wet grassland systems in the southeast as well as it supporting the largest UK population of lesser whirlpool ramshorn snail. The district also supports 32 Sites of Special Scientific Interest (SSSI), two National Nature Reserves, six Local Nature Reserves and 101 Local Wildlife Sites.

## Planning for the Natural Environment

**6.6** The planning system is a key tool in addressing the need to conserve and enhance the natural environment and to protect it from harm. The conservation and enhancement of Wealden's natural environment requires an ecosystems approach. This makes explicit the link between the status of natural resource systems and the ecosystem services that support the well-being of people. An ecosystems approach provides the opportunity to provide a fundamental consideration and strategy for the integrated management of land, water and living resources that promotes conservation and sustainable resource use in an equitable way. This approach looks beyond designated sites and protected species to consider natural systems as a whole.

---

<sup>57</sup> Ancient Woodland is defined as any area that has been continuously wooded since at least 1600 AD, it is defined in the NPPF as an irreplaceable habitat and is a material planning consideration.

It recognises the value of natural capital, which includes geology, soil, air, water and all living things around us in relation to the ecosystem services that it provides.

**6.7** Ecosystem services provided by our natural environment can include the food we eat, the water we drink, plant materials used for fuel, building materials and medicines. It can also include services such as climate regulation, natural flood defences, carbon storage, the pollination of crops by insects and even the inspiration we take from the natural environment and wildlife.

**6.8** Taking an ecosystems service approach is important to achieve sustainable development in both urban and rural environments and has the potential to strengthen nature as well as provide many planning and placemaking benefits. This includes enhancing quality of life and the resilience of our settlements to current and future pressures, as well as a range of socio-cultural and economic benefits. Overall, an ecosystems approach will lead to better outcomes for people and our natural environment and also for climate change. It will also support our vision for protecting our natural environment and increasing biodiversity.

**6.9** On the basis that an ecosystem approach and green infrastructure is multi-faceted and given the many benefits it provides, we have provided an overarching strategic policy for green infrastructure, see Policy SS9. The policies in this chapter therefore provide further detail on how we will achieve the protection, conservation and enhancement of our natural environment.

### **National Policy and Local Nature Recovery Strategies**

**6.10** At the time of this consultation, we are currently in a space where national policy and approaches to the natural environment are being further defined. Both the Government's 25 Year Environment Plan and The Environment Act 2021 have set goals and has established new mechanisms for supporting nature recovery such as a national Nature Recovery Network (NRN). NRN's will assist to focus efforts on restoring and enhancing wildlife-rich places and to deliver these through spatial strategies for nature called Local Nature Recovery Strategies (LNRS). LNRS are designed as tools to identify local priorities for nature and to target resources in a more coordinated, practical and focussed way.

**6.11** The LNRS for East Sussex is in the early stages of development. However, designated sites will be included in these documents as areas of existing importance for nature. Biodiversity Opportunity Areas, potentially with some boundary reviews, will further this and help to identify where actions for nature recovery should be targeted to help deliver local priorities. Under the Regulations relating to the preparation of LNRS, Wealden District Council is named as a 'Supporting Authority'. As such, the Council is working actively with East Sussex and West Sussex County Council's (as the Responsible Authority with responsibility for LNRS preparation), Sussex Nature Partnership (SxNP) and other partners and stakeholders in developing the strategy. The Council is very keen to ensure that there is a coordinated approach and we will support nature recovery through our policies, LNRS development and any associated SxNP projects. We will also consider the district's environmental assets and Council landholdings to understand whether there is potential to deliver specific local nature-based projects where this would be appropriate.

**6.12** Overall, the Council is committed to working with Sussex Nature Partnership, adjoining local authorities, partners and stakeholders, developers and landowners, to identify opportunities for nature and to deliver multiple benefits.

## What you have previously told us

**6.13** As part of the Direction of Travel consultation, the natural environment was split across biodiversity, green infrastructure and landscape, although all are intrinsically linked. You told us that it was important for the Council to be ambitious in our approach to protecting and enhancing the natural environment and that policies should be supported by a strong evidence base to understand opportunities to support delivery of policies.

### Biodiversity

**6.14** Ensuring that biodiversity net gain was provided onsite, wherever possible, was supported, as were financial contributions towards net gains, where appropriate, and offsite provisions where onsite was not feasible. However, it was clear that offsite provision and financial contributions should not be seen as a substitute for maintaining on-site and existing biodiversity, and that development should not be allowed to degrade biodiversity on a site on the basis that it is providing net gains elsewhere or a financial contribution.

**6.15** You also told us that the amount of biodiversity net gain was key and there was a clear difference of opinion between adopting the mandatory 10% target set out in the Environment Act and seeking to achieve a higher percentage target. In looking to set a target it was clear that careful consideration was needed in terms of fulfilling other objectives of the local plan and biodiversity net gain, for example in relation to housing delivery due to more land being needed to deliver biodiversity net gain.

**6.16** You also told us that protecting individual biodiversity features (such as trees and hedgerows) was important as was providing buffer zones around nature conservation sites. Furthermore, you told us that secondary impacts of development, such as increased visitors to protected sites, green spaces and Ancient Woodland and the impact this has on biodiversity needs to be fully considered.

**6.17** It was also seen as important that ecological corridors and links between biodiversity sites and habitats are protected and enhanced so as to avoid the fragmentation of habitats, which is important not only for biodiversity but also for climate change.

**6.18** Creating a strategic network of areas / sites that could be identified and allocated for off-site biodiversity net gains was also seen as key to the Council's ambitions for the natural environment, however you told us that there could be difficulties in creating a network, as such sites can take years to establish themselves and recreating and delivering valued habitat can be difficult. This is something the Council will look at given the focus on Local Nature Recovery Networks within the Environment Act 2021.

### Blue/Green infrastructure

**6.19** You told us that continuing to resist the inappropriate loss of green infrastructure was important as was setting out a strategic green infrastructure network in the district, identifying what development will need to achieve in relation to it through a clear set of standards and principles. Making green connections between development and existing and new green/blue spaces was also brought to the fore, with support for the provision / creation of green links for pedestrians and cyclists within settlements and between settlements.

**6.20** You also told us that creating new green spaces within the district, especially in areas where there is a deficit, is important for people's health and wellbeing as well as wildlife but that policies should be clear about the maintenance arrangements for such spaces.

**6.21** You also highlighted to us that creating small greenspaces is not a replacement for losing the natural environment and biodiversity and that careful consideration for any policies relating to creating new green spaces takes this into account.

### **Landscape**

**6.22** You told us that although a large part of Wealden is covered by the High Weald AONB designation, with a smaller proportion covered by the South Downs National Park, this should not result in other landscape areas, such as the Low Weald, being put under pressure for development. You also told us that development in the AONB should demonstrate how it has had regard to and met the objectives of the AONB management plan and design guide, accepting that some degree of development will be required within the designated landscape, subject to local policies and the tests within the NPPF.

**6.23** The protection of the district's dark night skies was supported, with particular emphasis on the rural areas where dark skies are being eroded by housing designs featuring, amongst other design elements, double storey glazed areas which cannot be curtained and whose lights shine out like beacons in rural dark sky areas.

**6.24** You also told us that any approach to landscape protection needs to consider opportunities for mitigation as well as opportunities to provide additional housing rather than a blanket restriction of development in relation to landscape because appropriate development can take place in the countryside.

**6.25** We have addressed these issues in our draft policies as set out in this chapter, however some will be addressed in specific strategies that will accompany and work with the Local Plan policies i.e. a Green Infrastructure Strategy and Biodiversity Strategy. These strategies will be prepared to support the next stage of the Local Plan and Local plan delivery.

### **Biodiversity, geodiversity and nature recovery**

**6.26** Nature recovery is important for delivering improvements to biodiversity, geodiversity, nature, ecological networks and green infrastructure. The NPPF has, as one of its three objectives for achieving sustainable development, the need for planning policies and decisions to protect and enhance the natural environment. This includes improving biodiversity, using natural resources prudently and minimising waste and pollution. This is key as a healthy and functioning natural environment is critical to achieving sustainable development and to mitigating and adapting to climate change.

**6.27** The Natural Environment and Rural Communities Act (2006) reinforces the role local planning authorities have in regard to the natural environment, placing a legal duty on them to have regard to, so far as is consistent with the exercise of their functions, the purpose of conserving biodiversity, and this duty has been strengthened through the Environment Act 2021 to include a requirement for the enhancement of biodiversity. Section 41 of the Act refers to a published [list of habitats and species](#) which are of principal importance for the conservation of biodiversity in England and the Council will seek to protect and enhance these priority habitats and species across the district.

**6.28** The Environment Act further strengthens the need to protect, conserve and enhance biodiversity by setting new binding targets relating to the environment and a mandatory requirement for development to achieve a minimum of 10% net gain in biodiversity. Biodiversity Net Gain is now mandatory, as of January 2024.

## Protect sites, habitats and species

**6.29** The district has a number of protected and valued habitats and species (including those on the Section 41 list) that should be protected and enhanced. These are:

- Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC);
- Pevensey Levels Special Area of Conservation (SAC) and Ramsar site;
- 32 Sites of Special Scientific Interest (SSSI);
- 2 National Nature Reserves (NNR);
- 7 Local Nature Reserves (LNR);
- 101 Local Wildlife Sites (LWS);
- 20 Biodiversity Opportunity Areas (BOAs) which cover an area of 36,221ha;
- 11,528ha of ancient woodland covering 13.8% of the district;
- Priority habitats including ancient woodland; coastal and floodplain grazing marsh; coastal saltmarsh; coastal vegetated shingle; deciduous woodland; ghyll woodland; intertidal chalk; intertidal mudflat; lowland calcareous grassland; lowland fen; lowland heathland; lowland meadow, traditional orchard; wood-pasture and parkland; reed bed and saline lagoon; ponds and hedgerows; and
- Protected, priority and notable species including European protected species (bats, hazel dormouse, and great crested newt – with Wealden being within a known stronghold for the latter); species protected under the Wildlife and Countryside Act; Section 41 species; notable birds and other rare species.

**6.30** The NPPF is very clear that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons<sup>58</sup> and a suitable compensation strategy exists. Irreplaceable habitats are those which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. The government is preparing regulations to establish a clear legal definition of irreplaceable habitat, which is currently being taken through Parliament, although this will not change the list of irreplaceable habitats as defined by Defra. Some irreplaceable habitats are defined within the NPPF. Of these, Wealden has a number including ancient woodland, ancient and veteran trees as well as coastal salt marsh and lowland fen.

**6.31** Whilst designated nature conservation sites and priority habitats / species are of significant value, the overall ecological network of habitats and species is important for biodiversity and nature recovery. The fragmentation of habitats and deterioration of the wider ecological network is a threat to biodiversity and nature recovery, particularly in the context of climate change.

**6.32** Soil is also a valuable natural resource and is under threat from loss and degradation. The structure and health of soil is important for food production, biodiversity and carbon storage and development should protect and enhance soils from design through to construction. Ancient woodland, irreplaceable habitat, has undisturbed soils that are a particularly valuable natural asset. Their soil contains much of their ecological value and has many complex ecological interactions. They are susceptible to direct and indirect impacts with potentially long-lasting effects, having taken hundreds of years to develop.

---

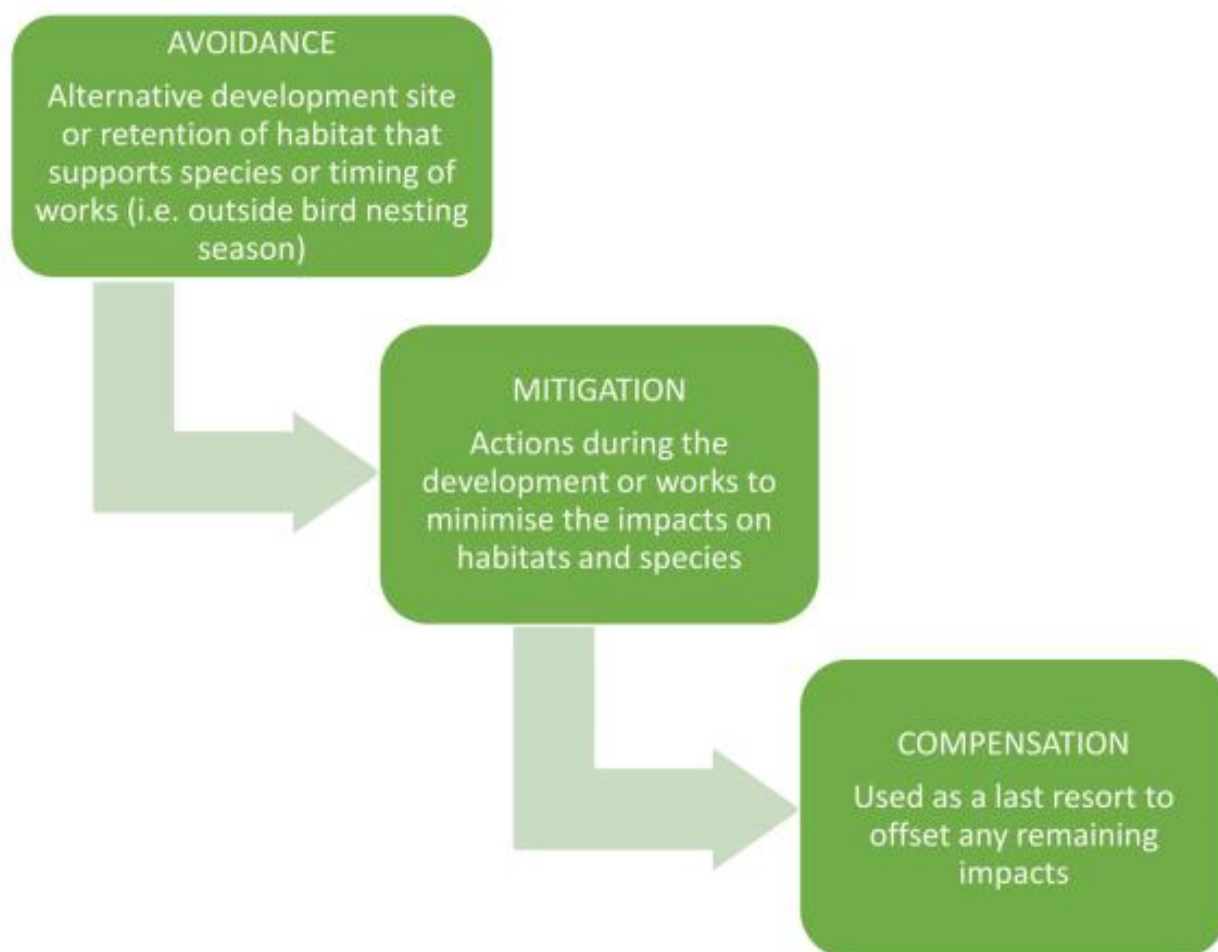
<sup>58</sup> For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

## Mitigation hierarchy

**6.33** Creating, enhancing and protecting wildlife corridors and stepping stones can assist in ensuring the connectivity of the overall ecological network and facilitate species movement, which could help in light of the impacts on species from climate change. Stepping stones are pockets of habitat that, while not necessarily connected, facilitate the movement of species across otherwise inhospitable landscapes.

**6.34** When considering the effects of a proposal on habitats, species and the overall ecological network, development must follow the mitigation hierarchy of avoid, mitigate, restore and compensate as per figure 1 below<sup>59</sup>.

**Picture 4 Mitigation Hierarchy**



**6.35** Compensation should always be a last resort. Following the hierarchy is crucial for all development projects in order to achieve no overall negative impact on biodiversity and to ensure biodiversity net gains are properly calculated; biodiversity net gain is additional to the above hierarchy.

## Contributing to nature recovery and biodiversity improvements

**6.36** All development can contribute to nature recovery and biodiversity improvements. Therefore, the Council expects developments to incorporate the consideration of biodiversity and biodiversity improvements into their schemes. Development must avoid any fragmentation

59 Adapted from [Avoidance, Mitigation & Compensation - Buildings, planning and development - Bat Conservation Trust \(bats.org.uk\)](https://www.bats.org.uk/resources/avoidance-mitigation-compensation-buildings-planning-development/)

or isolation of habitats and/or species and must create or enhance existing linkages between habitats.

**6.37** Development proposals should also have regard to the objectives identified for the Local Nature Recovery Strategy (LNRS), where appropriate (and once this is adopted), and seek to contribute towards those objectives wherever possible. This will ensure that biodiversity overall is improved and will focus net gains within areas where they are likely to offer the most benefit.

**6.38** The role of the planning process will be to ensure that the mitigation hierarchy is followed and that developments are meaningfully contributing to nature recovery within the district and, where possible in the wider area, working with our neighbouring authorities to ensure a coherent and connected natural environment.

**6.39** Policy NE1 sets out our preferred approach to conserving, restoring and enhancing the district's biodiversity, following the hierarchy of designated sites approach<sup>60</sup>. In taking this approach, we are seeking to ensure that development proposals not only protect and enhance individual biodiversity assets but that they also contribute to ensuring the overall network of biodiversity within the district is not adversely affected by, for example, avoiding fragmentation and creating connectivity between existing and new biodiversity. This will ensure our natural environment is healthy and functional so that it can continue to provide benefits to the health and wellbeing of our residents and nature as well as assisting us in mitigating and adapting to climate change.

## Policy NE1: Biodiversity, Geodiversity and Nature Recovery

- 1 The district's biodiversity resource will be protected, restored and enhanced. This will be achieved by:
  - a) Giving appropriate weight to the statutory purposes and special qualities of the hierarchy of international, national, regional and local sites, priority habitats, priority species and irreplaceable habitats;
  - b) Considering biodiversity at an early stage in site identification and design and ensuring that the location and / or use of development will not undermine designated sites, priority habitats and species and irreplaceable habitats, either directly or indirectly; and
  - c) Ensuring that any biodiversity net gain is in addition to any mitigation or compensatory measures<sup>61</sup>.
- 2 Development proposals affecting biodiversity and geodiversity (including designated sites, priority habitats and species and protected species) will be required to apply the mitigation hierarchy of avoidance, mitigation and compensation. The Council will not support development proposals where harm is not adequately avoided, mitigated or compensated for or where a proposal would result in loss or damage<sup>62</sup>. The only exception to this is where:

60 ODPM Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system

61 BS8683:2021 Process for designing and implementing BNG; BNG - Principles and Guidance for UK construction and development, CIRIA 2019.

62 NPPF 2021. Paragraph 180 (a)



- a) There is no suitable and alternative location for the development; and
- b) The adverse effects are unavoidable; and
- c) The benefits of development clearly outweigh the adverse effects including both the impacts it is likely to have on the features of the site or the national network of sites<sup>63</sup>; and
- d) Appropriate mitigation and compensation measures are agreed to ensure that the development results in a net benefit for biodiversity.

#### Local Wildlife sites, Geological Sites and Local Nature Reserves

- 3 The mitigation hierarchy of avoidance, mitigation and compensation will also apply to Local Wildlife Sites, Geological Sites and Local Nature Reserves. Planning permission will not be supported where significant harm to biodiversity cannot be avoided.
- 4 Where planning permission can be granted having followed the mitigation hierarchy of avoidance and mitigation first, the remaining area of the site will be protected by a planning condition or obligation and opportunities should be taken as appropriate to provide satisfactory compensatory measures in this area for any harm caused. Where compensatory measures are required, these should be provided onsite however where this is not possible, offsite compensation will be required.

#### Biodiversity and Nature Recovery

- 5 Relevant development proposals will be expected to apply the following measures:
  - a) Conserve, restore, enhance and/or create priority habitats and the habitats that support priority species;
  - b) Protect, conserve, restore, enhance and strengthen wildlife-rich habitats, ecological corridors and stepping stones to help wildlife populations grow and move;
  - c) Extend and buffer designated sites, irreplaceable habitats, priority habitats and where applicable support and implement measures within priority areas that could become of particular importance for nature recovery (as identified in the forthcoming Local Nature Recovery Strategy);
  - d) Improve resilience to climate change by accounting for and sustaining ecosystem services including protecting geological value and good quality soils that support sites or habitats of biodiversity value;
  - e) Ensure soil sustainability issues are identified at the earliest stage of scheme design to protect, and where possible enhance, soil quality within the site and its functions for food production (if relevant), biodiversity and carbon storage. These issues should be carried through to become part of the environmental programme for the construction phase;
  - f) Minimise any indirect adverse effects on habitats and species including those relating to recreation, lighting, disturbance, water quality, pollution or invasive species;
  - g) Maximise opportunities to deliver additional ecological and biodiversity features and support biodiversity enhancement through scheme design; and

63 NPPF 2021. Paragraph 180 (b), (c) and Paragraph 181

h) Secure the long-term management and maintenance of biodiversity and ecological features as relevant to a scheme and in line with priorities and measures identified in the forthcoming Local Nature Recovery Strategy.

- 6 The loss of existing wildlife rich corridors and stepping stones should be avoided. Where this is not possible, appropriate mitigation and suitable compensatory measures, as relevant to the status of the habitat affected, will be required to protect and enhance the ecological network.
- 7 Planning applications will be expected to be supported by relevant environmental information, including protected species and habitat records, which is informed by appropriate and up-to-date ecological data/surveys. Any ecological surveys should be undertaken by suitably qualified professionals and in line with best practice / guidance and Government standing advice. Scheme design should be informed by an Ecological Constraints and Opportunities Map.

### Supporting text

**6.40** Applications for planning permission should be informed by a thorough understanding of the potential impacts, direct and indirect, on habitats and species. In all cases, development proposals will be required to follow the mitigation hierarchy when considering the potential impacts of the proposal on the district's habitats and species, both designated and non-designated. Applicants are encouraged to contact the Sussex Biodiversity Record Centre for protected habitats and species information within the district.

**6.41** Proposals that could affect a site of value for biodiversity or geological conservation must be accompanied by sufficient information to assess the effects of development on protected sites, species, habitats, biodiversity or geology, together with any proposed prevention, mitigation or compensation measures. Ecological surveys will be required for sites subject to development proposals that contain areas of Priority Habitat, Biodiversity Opportunity Areas (BOAs) / Areas identified within the Local Nature Recovery Strategy (due for publication in March 2025) and/or that are adjacent to sites of known nature conservation importance, to assess the impact of those proposals on species and habitats.

**6.42** Mitigation and, if required, compensatory measures will be secured through planning obligations, conditions or conservation covenants (when enacted through secondary legislation) with priority for such measures to be provided on-site wherever possible.

**6.43** Development proposals on or near a site used by protected species, or a protected area or site for wildlife, should have regard to industry best practice guidance and to Natural England's guidance on preparing planning proposals to avoid harm or disturbance to protected species<sup>64</sup> and on how to avoid harming protected areas and species during development work<sup>65</sup>.

**6.44** Development applications, subject to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, will be required to prepare an Environmental Statement. Applications for development which could have a likely significant effect on a Special Area of Conservation, Special Protection Area or Ramsar site will be required to be assessed under the Habitats Regulations.

<sup>64</sup> [Prepare a planning proposal to avoid harm or disturbance to protected species - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species)

<sup>65</sup> [Construction near protected areas and wildlife - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/construction-near-protected-areas-and-wildlife).

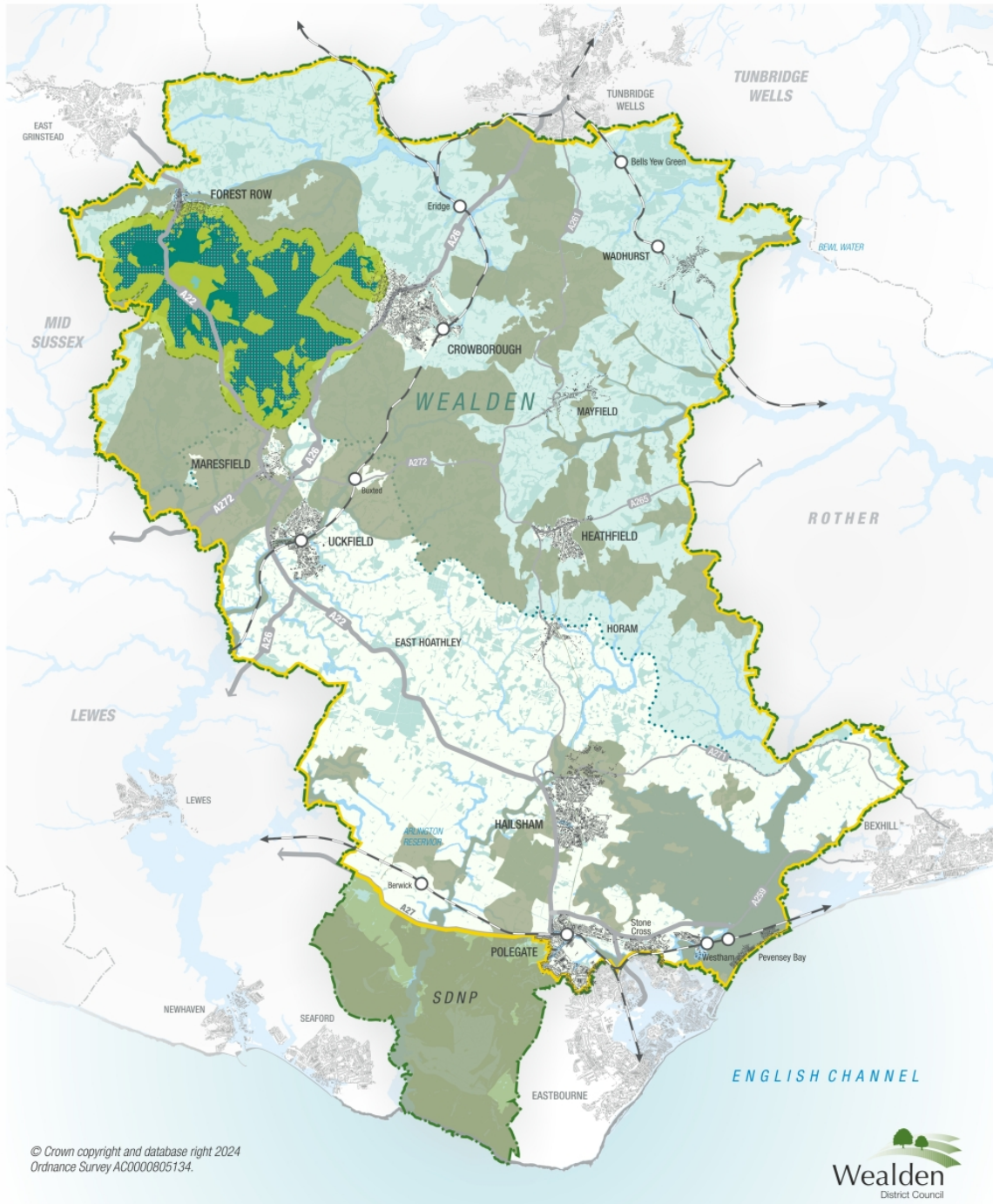
**6.45** In terms of considerations around soils, applicants are encouraged to refer to Defra's guidance 'Construction code of practice for the sustainable use of soils on construction sites'<sup>66</sup> or any subsequent guidance.

**6.46** It should be noted that knowledge of valuable sites and their condition is constantly changing, and decisions will be based on the most up to date information available. The Sussex Biodiversity Records Centre can provide known species and habitat general data for development sites, where appropriate.

---

66 [www.gov.uk/government/publications/code-of-practice-for-the-sustainable-use-of-soils-on-construction-sites](http://www.gov.uk/government/publications/code-of-practice-for-the-sustainable-use-of-soils-on-construction-sites)

### Map 7 Biodiversity Opportunity Areas



© Crown copyright and database right 2024  
Ordnance Survey AC0000805134.



**Existing Assets**

- Wealden District Boundary
- Local Plan Area
- Major A Roads
- Minor A Roads
- Rail
- Rail Stations
- Settlements
- South Downs National Park (SDNP)
- Woodland
- Water

**Designations**

- Special Protection Area
- Special Areas of Conservation
- Special Protection Area 400m Buffer Zone
- Special Protection Area 7km Buffer Zone
- High Weald National Landscape
- South Downs National Park (SDNP)
- Biodiversity Opportunity Areas

This map is for guidance only and each site will be considered on a case by case basis in relation to its distance from the SPA.

## Question 21

### Consultation Questions

- a Do you agree with draft policy NE1 Biodiversity, Geodiversity and Nature Recovery?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Biodiversity Net Gain

**6.47** In recent years legislation and national policy has been strengthened to require the delivery of Biodiversity Net Gain (BNG). BNG is an approach to development and land management that aims to leave the natural environment in a measurably better condition than it was before by either creating or enhancing habitats in association with development. Although we have sites specifically designated for biodiversity, the BNG approach provides a mechanism to value, maintain, enhance or create wider habitats. This builds on the mitigation hierarchy of avoid, mitigate and compensate as well as to enhance and create habitats, ensuring the improvement of ecological connectivity and nature recovery.

**6.48** To ensure the delivery of BNG, the Environment Act 2021 introduces a requirement for developments to deliver a minimum 10% biodiversity net gain above the ecological baseline for the application site. Local Nature Recovery Strategies, once drafted, will help guide the delivery of offsite BNG projects where it is appropriate to do so.

### Policy direction for the level of BNG

**6.49** There is much debate, including within our Direction of Travel consultation responses, about whether we should seek a higher than 10% requirement for BNG. We have therefore considered information that has been provided to us on this through various partnership working initiatives alongside considering our biodiversity resource and the opportunities for BNG within the district.

**6.50** In 2008 Biodiversity Opportunity Areas (BOAs) were identified by the Sussex Biodiversity Partnership. These are priority areas for maintaining, restoring and creating habitats. There are 20 BOAs within Wealden covering 36,221.2ha. This equates to just over 43% of the district and further contributes to the district's wonderfully rich and varied biodiversity resource. The work of the Sussex Biodiversity Partnership has now expanded and is incorporated into the wider Sussex Nature Partnership.

**6.51** A number of recently adopted Local Plans have adopted a minimum 20% BNG policy. In addition, a number of local authorities across the country are progressing plans that seek a minimum 20% BNG requirement.

**6.52** In addition, the Kent Nature Partnership has undertaken work to justify the adoption of a 20% target in the county. This is on the basis that the county contains globally rare habitats

and supports over 3,400 rare and threatened species nationally, including rare and special species only found in Kent within the UK. This wealth of biodiversity resource and the natural capital / ecosystem services it provides, together with increased pressure on land use and significant growth, are the justification for seeking the 20% minimum BNG in Kent. More recently, Horsham District Council located in Sussex published their Biodiversity Net Gain Assessment to support the development of their emerging Local Plan policies on BNG. This assessment tested higher and lower thresholds to the mandatory 10% and found differing thresholds appropriate for different scales of development.

**6.53** From the work undertaken in Kent, and work that is ongoing from around the country, it is considered there is a minimal difference in viability between delivering 10% or 20% BNG.

**6.54** Given the rich and varied biodiversity resource in our district and emerging information, evidence and approaches from elsewhere, we are looking to test as part of our Regulation 18 consultation a minimum of 20% BNG and this is set out within our policy below.

**6.55** There are two alternative options that we have considered aside the option presented in our policy below. This includes the legislated minimum 10% BNG and considering a higher minimum target of 20% BNG only where sites are located within or adjacent to BOAs. The premise behind considering a higher target for in and around BOAs is that these areas are considered to provide the best opportunity for enhancing biodiversity, often being buffers around existing designated sites or linkages between sites and/or incorporating a high proportion of priority habitat.

**6.56** As part of our local plan evidence base work, we will continue to consider our options and the percentage of BNG that we will require in further detail as the plan progresses.

### **Biodiversity Metric and on/off site BNG**

**6.57** BNG will be measured using Defra's Biodiversity Metric. There are two Defra Biodiversity Metrics - Biodiversity Metric 4.0 for major developments and The Small Sites Metric. The Small Sites Metric is a simplified version of the Biodiversity Metric 4.0 and has been specifically designed for use on small development sites where the project chooses to do so.

**6.58** Both metrics measure biodiversity to determine how a development, or a change in land management, will change the biodiversity value of a site. The metrics will allow developments to be designed in a way to take better account of biodiversity and will identify the biodiversity value of a site both before and after a development takes place. Developments need to submit a Biodiversity Gain Plan as part of the application process.

**6.59** The BNG approach is based on the fundamental principle for a spatial hierarchy of habitat delivery. BNG should be delivered on-site and only where this is not possible should off-site (either wholly or in part) BNG be sought. Where off-site BNG is the only option then developers should contact the Council to discuss opportunities. As the plan progresses it is likely that off-site BNG opportunities will be informed by the LNRS and the Council's Green Infrastructure Strategy.

**6.60** Part 6 of the Environment Act 2021 strengthens the duty to conserve biodiversity set out in Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006. It requires the enhancement, and not just conservation, of biodiversity and as a public authority WDC should, in undertaking its functions, be seeking opportunities to enhance biodiversity wherever possible. At present, the Biodiversity Metric measures BNG in habitat terms and does not specifically take into account species. Additional measures, such as the provision of bird,

bat and insect boxes, will therefore not be included in the metric, but can provide important biodiversity enhancements.

## Policy NE2: Biodiversity Net Gain

- 1 Qualifying development proposals<sup>67</sup> are required to deliver a minimum overall net gain in biodiversity of 20% above the ecological baseline. Biodiversity net gain will be calculated and assessed using the appropriate DEFRA published biodiversity metric and UK Habitats Classifications. The biodiversity net gain calculation and assessment should be completed by a suitably experienced and qualified ecologist and be submitted in full with the application for development.
- 2 Development will need to demonstrate that the mitigation hierarchy has been followed.
- 3 Proposals for biodiversity net gain must follow the spatial hierarchy of net gain provision. This requires biodiversity net gain to be provided as part of the development. Only where it can be demonstrated that biodiversity net gain cannot meaningfully be achieved on site will the Council consider the potential for local enhancements and off-site biodiversity net gain.
- 4 Qualifying development proposals must be supported by a Biodiversity Net Gain Plan and supporting information to demonstrate how biodiversity net gain will be achieved. This should also include information on habitat management and monitoring for retained, enhanced or newly created habitats.
- 5 When granting permission for any proposals that include Biodiversity Net Gain, the Council will impose conditions or seek planning obligations or Conservation Covenants that secure appropriate management and monitoring regimes to deliver biodiversity net gain for at least 30 years after the completion of works.

### Supporting text

**6.61** The proposals for enhancement of biodiversity will depend on the nature and scale of the development, however a development with limited or no impacts on biodiversity should still seek to demonstrate a net gain. Small-scale development proposals, collectively, could make a notable contribution to biodiversity net gain and the wider Nature Recovery Network. The Council will use planning conditions, planning obligations or Conservation Covenants to require that a planning permission provides for works that will measurably increase biodiversity.

**6.62** Applicants are directed to the Defra Draft biodiversity net gain planning practice guidance<sup>68</sup>.

**6.63** Applicants will be expected to use the appropriate Defra Metric to show the full calculations for both the development site and any offset location in terms of the number of 'biodiversity credits/units' being claimed. Any scheme of this nature must follow the principle of ecological equivalence and therefore there must be no trading down of habitat types.

67 As defined in The Environment Act 2021, Schedule 14, Part 2, Paragraph 17

68 Defra. Draft biodiversity net gain planning practice guidance. 29 November 2023. Available at: [www.gov.uk/guidance/draft-biodiversity-net-gain-planning-practice-guidance#biodiversity-net-gain-submitting-a-planning-application](https://www.gov.uk/guidance/draft-biodiversity-net-gain-planning-practice-guidance#biodiversity-net-gain-submitting-a-planning-application)

**6.64** For small scale development proposals<sup>69</sup> applicants should use the Defra Small Sites Metric (and any subsequent replacements)<sup>70</sup> to demonstrate that completion of the development will result in a measurable long-term net gain for biodiversity. Post development habitat units' quality calculations should take account of influences and pressures that may limit deliverable habitat quality (e.g. tree shading, proximity to development).

**6.65** Where development would be subject to biodiversity net gain, the application must be accompanied by minimum information set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

- the pre-development biodiversity value of the onsite habitat on the date of application (or an earlier date) including the completed metric calculation tool used showing the calculations, the publication date and version of the biodiversity metric used to calculate that value;
- where the applicant wishes to use an earlier date, the proposed earlier date and the reasons for proposing that date;
- a statement confirming whether the biodiversity value of the onsite habitat is lower on the date of application (or an earlier date) because of the carrying on of activities ('degradation') in which case the value is to be taken as immediately before the carrying on of the activities, and if degradation has taken place supporting evidence of this;
- a description of any irreplaceable habitat (as set out in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations [2024]) on the land to which the application relates, that exists on the date of application, (or an earlier date); and
- a plan, drawn to an identified scale which must show the direction of North, showing onsite habitat existing on the date of application (or and earlier date), including any irreplaceable habitat.

**6.66** Where degradation of the onsite habitat has taken place between 30th January 2020 and the date of the submission of the planning application, the biodiversity pre-development value of the onsite habitat is the biodiversity value of the habitat immediately before the carrying out of these degradation activities.

**6.67** Major and large-scale development schemes should deliver wider environmental net gain wherever possible, reflecting the opportunities identified in the Wealden Green Infrastructure Study 2017 (or any subsequent replacement). Seeking to achieve wider environmental net gain should reduce pressure on, and achieve overall improvements in, natural capital and ecosystem services and the benefits that they deliver.

**6.68** Until such a time that the Sussex Local Nature Recovery Strategy (LNRS) is adopted, developers should use Biodiversity Opportunity Areas to focus any off-site biodiversity net gain delivery. This will ensure that biodiversity net gain contributes to wider nature recovery plans, as well as local objectives, and help ensure that the right habitats are provided in the right places.

---

69 Defined as developments of up to 9 dwellings on a site of less than 1 hectare; where the number of dwellings is not known and the site area is less than 0.5 hectares; and for all other development types where the site area is less than 0.5 hectares or less than 5,000sqm and where there is no priority habitat present within the development area.

70 It is not appropriate to use the Small Sites Metric to calculate offsite losses and gains.



**6.69** Defra has recently published regulations and statutory guidance to help shape how Local Nature Recovery Strategies are implemented across England<sup>71</sup>. Developers will be expected to follow these regulations<sup>72</sup> and statutory guidance<sup>73</sup>, in combination with the East Sussex Local Nature Recovery Strategy and any district level strategies, such as the Green Infrastructure Strategy, when looking at their biodiversity net gain proposals and plans.

**6.70** The Council is considering developing a Wealden District Biodiversity Strategy which will support the Sussex LNRS which is being produced at the County level. Once produced this will provide information and guidance for developers. In the absence of this, developers can refer to guidance such as the Biodiversity Net Gain – Principles and Guidance for UK Construction and Developments (CIEEM, CIRIA, IEMA, 2019), British Standard BS42020 Biodiversity - Code of Practice for Planning and Development, and BS8683 - Biodiversity Net Gain or subsequent revisions.

**6.71** The requirement for biodiversity net gain does not change existing biodiversity protections. Therefore, current legal and policy provisions relating to development impacts on the natural environment, including protected sites and species, and priority species and habitats, all need to be considered in relation to habitat loss. A development cannot avoid this requirement by virtue of delivering a net gain. If there are protected species on-site, then these should be approached and managed in the same way as they are currently. BNG and the Biodiversity Metric calculations will be additional to this.

## Question 22

### Consultation Questions

- a Do you agree with draft Policy NE2 Biodiversity Net Gain?
- b Is the policy correct to require a blanket minimum 20% BNG requirement across the district or should distinctions be made i.e. higher % requirement when sites are within BOAs or other designated sites? Or should the Council have a lower or higher than 20% BNG target? Please explain your answer.
- c Should we change anything? if so, what should we change and why?
- d Have we missed anything? If so, what have we missed and how should it be included?

### Woodland, trees and hedgerows

**6.72** Woodland, trees and hedgerows make a valuable contribution to the district's landscape character, biodiversity, amenity, climate resilience and quality of life. They also form part of the district's green infrastructure network and contribute to mitigating and adapting to climate change through carbon storage, flood mitigation and urban cooling.

71 Local Nature Recovery Strategy: What to include - <https://www.gov.uk/government/publications/local-nature-recovery-strategy-what-to-include>

72 [The Environment \(Local Nature Recovery Strategies\) \(Procedure\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2023/1111/contents/made)

73 [Local nature recovery strategy: what to include - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/local-nature-recovery-strategy-what-to-include)

**6.73** In January 2013 Defra published its Government Forestry and Woodlands Policy Statement. This explains the Government's policy of seeking to protect, improve and expand existing public and private woodland assets, to improve and restore native and ancient woodlands, and to improve the biodiversity of woodlands. It states that increasing woodland cover by 12% across England by 2060 is deliverable.

**6.74** The NPPF recognises the importance of trees and seeks net environmental gain from development. In addition, the Government's 25 year Plan to improve the Environment (2018) and its Tree Health Resilience Strategy (2018) sets out why it is important to preserve and plant trees and make a commitment to improve the extent, connectivity, diversity and condition of trees.

**6.75** Our district is heavily wooded and there are many pressures that can affect our woodlands including an ongoing decline in traditional woodland management practises, under management of woodlands and copses, inappropriate management, introduction of new species, disease and pests, pollution and disturbance. All these pressures can result in the loss of species diversity.

**6.76** Hedgerows are also important features providing the same benefits as woodlands. Mature hedgerows, including their associated trees are an integral part of the traditional hedge system, contributing to the wooded context of the district in both urban and rural areas. Changes to farming practices in the 20th Century saw a decline in the extent of rural hedgerows. [The Hedgerow Regulations \(1997\)](#) and [National guidance](#) protect hedgerows where they meet specific criteria on their length, location and species composition, and where deemed important consent is required from the Local Planning Authority to remove them, although there is a presumption towards retention unless strong justification can be provided. In a Wealden context this includes hedgerows on farmland and open land. The Hedgerow Regulations also define 'important' hedgerows as being of particular archaeological, historical, wildlife or landscape value. The loss of hedgerows and mature hedgerow trees through natural ageing, development pressure or associated pests and diseases together with a lack of replacement, is a key challenge.

**6.77** In order to protect trees in the interest of amenity, particularly when they are considered to be at risk, the Council can make a Tree Preservation Order (TPO) meaning the tree has special protection under the Planning Acts. The Council has made approximately 1,457 Tree Preservation Orders (TPOs) covering individual and groups of trees / woodlands, however this number fluctuates as orders are revoked and new ones are made on a rolling basis.

**6.78** The Council will seek to ensure that, wherever possible, new development does not result in the loss of any trees which are valuable to people and the environment and will seek to maximise appropriate tree cover in new development. This includes protecting trees and other vegetation from damage during construction phases and any adverse impacts from increased access.

## Policy NE3: Woodland, Trees and Hedgerow

### Woodland, tree and hedgerow protection and creation

- 1 Development proposals will be supported where they protect, restore, manage and enhance existing woodland, trees and hedgerows and their features in accordance with best practice guidance and relevant standing advice.
- 2 New trees, woodland and hedgerows should be located to enhance and restore biodiversity, landscape character, visual amenity, contribute to the green infrastructure network, facilitate climate change mitigation and adaptation and enhance biodiversity. Any planting should be characteristic of the local area, in keeping with the site surroundings, including any historic context, and comprise of predominantly native species. Where possible and identified, planting should contribute to local ecological networks.
- 3 Development proposals will be supported where existing woodland, hedgerows and trees are taken account of and integrated into the design of development with long-term sustainable relationships being achieved. Sufficient measures, with allowance for future growth and maintenance requirements, must be provided to ensure protection from any likely impacts from development, including access.
- 4 Proposals should incorporate trees within the design and layout of development within both urban and rural areas, including tree-lined streets, to enhance the amenity of the public realm as well as providing climate change adaptation and mitigation benefits.
- 5 Proposals will need to demonstrate that sufficient measures can be implemented to protect trees, woodland and hedgerows both during and for the lifetime of the development to achieve current and long-term sustainable relationships.
- 6 Development proposals will not be permitted where they result in, or have been subject to, the unjustified loss of, or threaten the long-term retention of trees, woodland or important hedgerows that contribute to urban or rural landscape character, the green infrastructure network, visual amenity, the historic environment or wildlife importance unless:
  - a) The proposal is supported by sound Arboricultural reasons for the loss/harm, taking account of British Standard BS5837-2012 (and any subsequent revisions) and demonstrated through work undertaken by suitably qualified professionals;
  - b) The baseline biodiversity value of the site has been established and taken account of in biodiversity net gain requirements in accordance with legislation, government guidance and best practice standards;
  - c) The development has significant benefits which outweigh the loss of/harm to the trees, woodlands or hedgerows concerned, where it is demonstrated retention is not possible; and
  - d) Suitable replacement trees and/or hedgerows at an appropriate ratio to demonstrate suitable compensation, mitigation and enhancement are provided on site, or if necessary and justified, off site.

- 7 Where trees are lost through development, an appropriate number of suitable replacement trees, in terms of species and size, that replaces or exceeds that which is lost will be required to be planted on-site at appropriate locations. This does not necessarily replace the requirements of other policies with regard to 1. net gain for biodiversity or green infrastructure but may contribute to those objectives. In addition, all development will be expected to increase tree cover. This should be to a level of one tree per dwelling or per 100sqm of floorspace (for non-residential developments) on-site and will comprise predominantly native species. Where it can be clearly demonstrated and justified that onsite provision is not possible, provision should be made off-site within the district.
- 8 An appropriate buffer, must be provided for woodlands and trees, commensurate with its ecological and arboricultural value, that will:
  - a) Ensure long-term retention and future growth requirements of trees and woodlands;
  - b) Not prejudice ecological or arboricultural processes including natural succession of biodiversity value, development of mature or veteran trees and/or features;
  - c) Allow for tree and deadwood retention and accommodate tree risk management requirements, including windfall trees;
  - d) Take account of, minimise and where possible avoid the impacts from tree and woodland shading, over-dominance, seasonal debris, increased property maintenance requirements and perception of risk.

#### Implementation and management

- 9 Development proposals, where relevant, will be required to provide a landscape and ecological management (LEMP) plan that accords with best practice standards and regulatory and legislative requirements, to ensure the successful establishment, retention, restoration and enhancement of new and existing woodland, tree or hedgerow planting.

### Supporting text

**6.79** The Council will protect existing woodlands, trees and important hedgerows including trees subject to a Tree Preservation Order and ancient or species-rich hedgerows, from loss or deterioration as well as continuing to make Tree Preservation Orders (TPOs) where specific trees or groups of trees are of particular value and are potentially under threat.

**6.80** Proposals for development will be expected to avoid harm to existing trees, woodlands and hedgerows and seek to protect and incorporate them into any landscape scheme. This includes protecting trees and other vegetation from damage during construction phases and any adverse impacts from increased access, therefore all landscape features should be protected through good design. Exceptions will only be made where their age or physical condition would compromise their long-term survival or where there are exceptional and overriding benefits in accepting their loss.

**6.81** All proposals for development which may affect trees and / or hedgerows, either within the site or in close proximity, must adhere to BS5837-2012 Trees in Relation to Design, Demolition and Construction or submit a detailed tree and hedgerow survey with their application. The tree survey information should include protection, mitigation and management measures.

A pre-development survey should be carried out by a competent arboriculturist and record information in regard to trees and hedgerows on a site independently of, and before, any specific layout or design is produced. The tree constraints identified, above and below ground should inform future site layout and design.

**6.82** Applicants will be expected to seek to maximise opportunities for tree planting and woodland creation, as appropriate to the site, including the provision of tree lined streets, in relation to development proposals, following the best practice guidance from the Forestry Commission on right tree, right place for the right reasons. It is important that applicants avoid any negative impacts of woodland creation on landscape character, visual amenity and other habitats. Where tree planting or woodland creation is proposed as part of developments within the High Weald AONB National Landscape, applicants are strongly advised to take account of the High Weald AONB Management Plan

**6.83** Applicants are encouraged to review and take account of the following guidance when designing their development proposals and assessing potential effects on woodlands:

- Forestry Commission - [Managing and maintaining woodlands](#)
- Forestry Commission - [Plant your future: The Case for Trees](#)
- Forestry Commission - [UK Forestry Standard](#).
- Woodland Trust - [Tree Species Handbook](#)
- Woodland Trust - [Tree provenance in a changing climate - the Woodland Trust's position](#).

**6.84** New development should seek to incorporate strategically sited trees within their design and layout that will provide shade and cooling to buildings and the public realm, in order to contribute to the mitigation of climate change impacts through, for example, provision of shading and surface water runoff management.

**6.85** Tree planting schemes, whether for replacement or new trees, will need to use appropriate species that are adaptable to future climatic conditions, particularly the higher temperatures and potential drought conditions predicted in summer. Native and large canopy species should be used where possible and appropriate, in order to deliver additional biodiversity benefits. Applicants are encouraged to refer to and take account of the Woodland Trust's [Tree Species Handbook](#), which is also helpful for tree selection for planners.

**6.86** Applicants should also make use of the Woodland Opportunity Mapping Tool published by the Sussex Nature Partnership, Woodland Trust and South Downs National Park Authority<sup>74</sup>.

## Question 23

### Consultation Questions

- a Do you agree with draft Policy NE3 Woodland, Trees and Hedgerows?
- b Are the thresholds for tree provision, to increase tree cover, set out in point 7 appropriate? Please explain your answer.

74 [Woodland Opportunity Mapping - South Downs National Park Authority](#)

- c Should the policy look to set a minimum buffer for protecting woodland and trees? Please note there is a separate policy for Ancient Woodland and Veteran Trees below. Please explain your answer.
- d Should we change anything? if so, what should we change and why?

### Ancient Woodland and Veteran Trees

**6.87** Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat. It has complex ecological networks and is a limited resource. Both the ancient woodland and its associated wildlife are particularly vulnerable and must be protected from damaging effects of adjacent and nearby land uses that could threaten the integrity of the habitat and survival of its special characteristics.

**6.88** Natural England's Ancient Woodland Inventory shows that there are 2,713 ancient woodlands. Mature and ancient woodland are an essential part of the district's natural capital and a significant biodiversity resource. Woodland is also a Sussex Biodiversity Action Plan habitat.

**6.89** Veteran trees are trees which, because of their age, size or condition are of cultural, historical, landscape and nature conservation value. They can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside Ancient Woodlands. There are over 1,200 veteran trees within the district<sup>75</sup>. Veteran trees are also considered an irreplaceable habitat.

**6.90** The Council will seek to ensure that where development is proposed close to ancient woodland and/or veteran trees, or where development may result in harm to ancient woodland and/or veteran trees, suitable and appropriate protection is provided in the form of buffer zones and any other measures deemed necessary.

### Policy NE4: Ancient Woodland and Veteran Trees

- 1 Development proposals for sites that are adjacent to, contain, or impact ancient woodland must:
  - a) Be accompanied by appropriate Ecological and Arboricultural surveys that identifies and plots the location of ancient woodland, ancient trees and veteran trees. Ecological and Arboricultural surveys will be to recognised industry standards and best practice.
  - b) Provide suitable and adequate buffers. All buffers are sacrosanct and should be clear of any development or ancillary infrastructure including new footways, cycleways, boardwalks and upgrading/widening/intensification of existing routeways; and
  - c) Ensure that buffer zones consist of semi-natural habitat that protects, reduces and prevents against direct and indirect impacts on ancient woodland and contributes to biodiversity net-gain, ecological networks and green infrastructure.

<sup>75</sup> [Ancient Tree Inventory - Woodland Trust](#)

- 2 In the absence of site surveys and detailed assessments that demonstrate a 25m buffer is not required, the Council will assume a minimum buffer of 25m from the edge of the woodland, which allows for the presence of veteran trees and the fall height of mature trees.
- 3 Development resulting in the direct or indirect deterioration or loss of ancient woodland, ancient, aged or veteran trees will not be permitted unless there are wholly exceptional reasons demonstrated<sup>76</sup>.
- 4 Mitigation and compensation will be required in such circumstances in accordance with the mitigation hierarchy.
- 5 The existing condition of ancient woodland or veteran trees likely to be impacted by development will not be an accepted reason to grant planning permission. Nor will development be permitted that relies on a final mitigation/compensation strategy that seeks to address loss or deterioration of ancient woodland during development phase where exceptional reasons have not been demonstrated.

### Supporting text

**6.91** Where developments are proposed in, or adjacent to, ancient woodland, the Council will have regard to Natural England and Forestry Commission Standing Advice for Ancient Woodlands<sup>77</sup>.

**6.92** Our priority is to protect ancient woodland, ancient, aged and veteran trees from loss or deterioration. Ancient trees and woodlands are a part of our natural heritage and are simply irreplaceable<sup>78</sup>. The Council expects developers, through assessment, to confirm the buffer that is appropriate and that the priority for such buffers will be ecological mitigation and enhancement for the woodland rather than the amenity of the proposed development.

**6.93** In the absence of robust and site specific justification, we will adopt minimum 25m Ancient Woodland buffer from development sites. In line with the Standing Advice, we will also increase that distance depending upon the sensitivity of the site and its associated features. Examples are when sites include:

- Steep slopes
- Ghyll streams
- Ancient Woodland blocks close to and bordered on different sides by residential development
- Where woodland is a surviving remnant from a larger block of historic woodland

**6.94** Our priority is to ensure no loss of Ancient Woodland occurs other than in wholly exceptional circumstances (defined as nationally significant infrastructure projects or orders under the Transport and Works Act). Remedial measures will also be sought to make good any existing damage to ancient woodland where possible, and to protect and enhance it where opportunities allow.

76 For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat (paragraph 180 (c) of the NPPF)

77 Ancient woodland, ancient trees and veteran trees: advice for making planning decisions and the NPPF.

78 Keepers of time: ancient and native woodland and trees policy in England.

**6.95** Applicants are encouraged to review and take account of the Woodland Trust's publication the [Ancient and veteran trees: An assessment Guide](#) whose steps can be incorporated into a woodland condition assessment or other site survey.

**6.96** Applicants are also encouraged to review and take account of the Ancient Tree Forum (ATF) management advice on [practical management of veteran trees](#) which provides advice on techniques for crown reducing a veteran tree, halo clearance for veteran trees; the importance of the land around a veteran tree; common sense risk management of veteran trees; the creation of decaying wood habitats; the management of veteran fruit trees and the management of veteran pollards still in a regular cycle of cutting.

**6.97** In relation to veteran trees and their management, in addition to the ATF's advice, applicants should take account of the potential for the presence of protected / priority species they may support (i.e. bats and stag beetles) together with opportunities for retaining standing dead wood to support species.

**6.98** The Council will take account of the [Natural England and Forestry Commission's standing advice on ancient woodland, ancient trees and veteran trees](#) when considering a development proposal.

## Question 24

### Consultation Questions

- a Do you agree with draft Policy NE4 Ancient Woodland and veteran Trees?
- b Should the policy set a minimum buffer zone to protect ancient woodland? Please explain your answer.
- c Do you agree our approach should expect deeper buffers on sloping sites, land with ghyll streams or where woodland is a remaining fragment from a long removed historic block of Ancient Woodland? Please explain your answer.
- d Should the policy leave the determination of a buffer zone, to protect ancient woodland from development, to a case-by-case basis? Please explain your answer.
- e Should we change anything? if so, what should we change and why?
- f Have we missed anything? If so, what have we missed and how should it be included?

### Ashdown Forest Special Protection Area and Special Area of Conservation

**6.99** Ashdown Forest is located within the High Weald National Landscape in the north west of the district to the east of Crowborough and south of East Grinstead and Forest Row. It is one of the largest single continuous blocks of lowland heath, semi-natural woodland, and valley bog in south-east England, and it supports several uncommon plants, a rich invertebrate fauna, and important populations of heathland and woodland birds. Ashdown Forest is a designated Site of Special Scientific Interest and is both a Special Protection Area (SPA) and a Special Area of Conservation (SAC).



**6.100** Ashdown Forest SAC is designated due to the extensive example of European Northern Atlantic wet heaths and dry heath. Ashdown Forest SPA is designated due its ground nesting breeding bird populations of Dartford warbler and nightjar. Ashdown Forest is a European designated site, referred to as a Habitat Site, and therefore Habitat Regulations Assessments are required for development and plans that are likely to result in a significant effect on its qualifying features.

**6.101** The Council has undertaken an Interim Habitats Regulations Assessment (HRA) to test whether the local plan at the Regulation 18 stage, in combination with other plans and projects, is likely to have an adverse impact on the integrity of the Ashdown Forest SAC and SPA.

**6.102** The HRA has identified that net additional residential development is likely to result in a significant effect on the SPA. Studies and evidence resulting from research undertaken at Ashdown Forest SPA and other SPAs in the country has identified that one of the principal threats to the ground nesting Dartford warbler and nightjar is the damaging effects of disturbance caused by recreation during their breeding period. It is acknowledged that freely roaming dogs exacerbate the disturbance caused by people visiting the site.

**6.103** Ashdown Forest SPA is located relatively close to several towns and villages. Its attractive, extensive open nature and the right to access most of the site, means that it will inevitably draw people for recreation. An increase in residential development will lead to an increase in population within the districts and boroughs around Ashdown Forest SPA. As advised by Natural England both avoidance and mitigation measures are required to prevent an adverse effect on the integrity of the site. This includes the following:

- Avoidance:
  - o a 400m exclusion zone for residential development to avoid cat predation and other impacts associated with urbanisation such as fly tipping;
  - o Suitable Alternative Natural Greenspace (SANG) – to provide alternative green space to attract visitors away from Ashdown Forest and to reduce overall visitor and recreational pressure at the Forest. In particular, the creation of space that is particularly attractive to dog walkers. Relevant development will either need to provide a SANG or make a contribution to a strategic SANG.
- Mitigation
  - o Strategic Access Management and Monitoring Strategy – to deliver a strategy for visitor management at Ashdown Forest and the monitoring of the effects of avoidance and mitigation. The SAMM Strategy is funded by developer contributions and is a strategic coordinated approach in partnership with other local authorities including Mid Sussex, Lewes, Tunbridge Wells, Sevenoaks and Tandridge.

**6.104** Avoidance and mitigation measures are necessary to ensure that the conservation objectives for Ashdown Forest SPA and SAC are met. The Council in partnership with other local authorities undertook visitor surveys in 2008, 2016 and 2021. The visitor surveys confirm that avoidance and mitigation for recreational development is required for a 400m – 7km zone around Ashdown Forest SPA.

**6.105** In relation to Ashdown Forest SAC, the European Heaths are sensitive to air pollutants, in particular nitrogen deposition, from an increase in traffic associated with additional development. The Interim HRA has concluded at this stage that the growth strategy set out in

this Regulation 18 draft Local Plan will not result in an adverse impact on the integrity of the SAC and therefore mitigation is not required. However, planning applications will need to be assessed, both alone and in combination with other plans and projects, to consider any air quality impacts and to prevent adverse effects on the integrity of Ashdown Forest SAC.

## Policy NE5: Ashdown Forest SPA

- 1 In order to prevent adverse effects on the integrity of the Ashdown Forest SPA and SAC, new development likely to have a significant effect, either alone or in combination with other plans or projects, will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Development will only be permitted where it can be concluded that there is no likely significant effect or that proposals will not adversely affect the integrity of Ashdown Forest SPA and SAC.

### Recreational pressure avoidance and mitigation

- 2 Within a 400 metre buffer zone around Ashdown Forest SPA, mitigation measures are unlikely to be capable of protecting the integrity of the SPA and, therefore, residential development will not be permitted on sites where the curtilage of a property falls within 400m from the SPA.
- 3 Proposals for a net increase in residential development between 400m and 7km from Ashdown Forest SPA will be required to contribute to mitigation through:
  - a) The provision of Suitable Alternative Natural Greenspace (SANG) to the minimum level of 8ha per 1,000 net increase in population or the provision of a financial contribution to a strategic SANG that is acceptable to provide avoidance / mitigation for the development; and
  - b) A financial contribution to the Ashdown Forest Strategic Access Management and Monitoring (SAMM) Strategy.
- 4 The provision of SANG will be supported where they meet Natural England SANGs Guidelines.
- 5 Residential development schemes located adjacent or close to the 7km zone boundary will be assessed on a case-by-case basis and may require mitigation for the SPA. A site specific HRA will be required at the application stage for sites on or close to the boundary.
- 6 Alternative provision(s) for avoidance and mitigation to address the impact of visitors at Ashdown Forest will only be considered where it can be demonstrated that it will be effective and deliverable over the lifetime of the development.

### Air Quality

- 7 New development likely to result in increased traffic will need to be assessed through a site-specific Habitats Regulations Assessment at the application stage to consider any air quality impacts and to prevent adverse effects on the integrity of the Ashdown Forest SAC.

## Supporting text

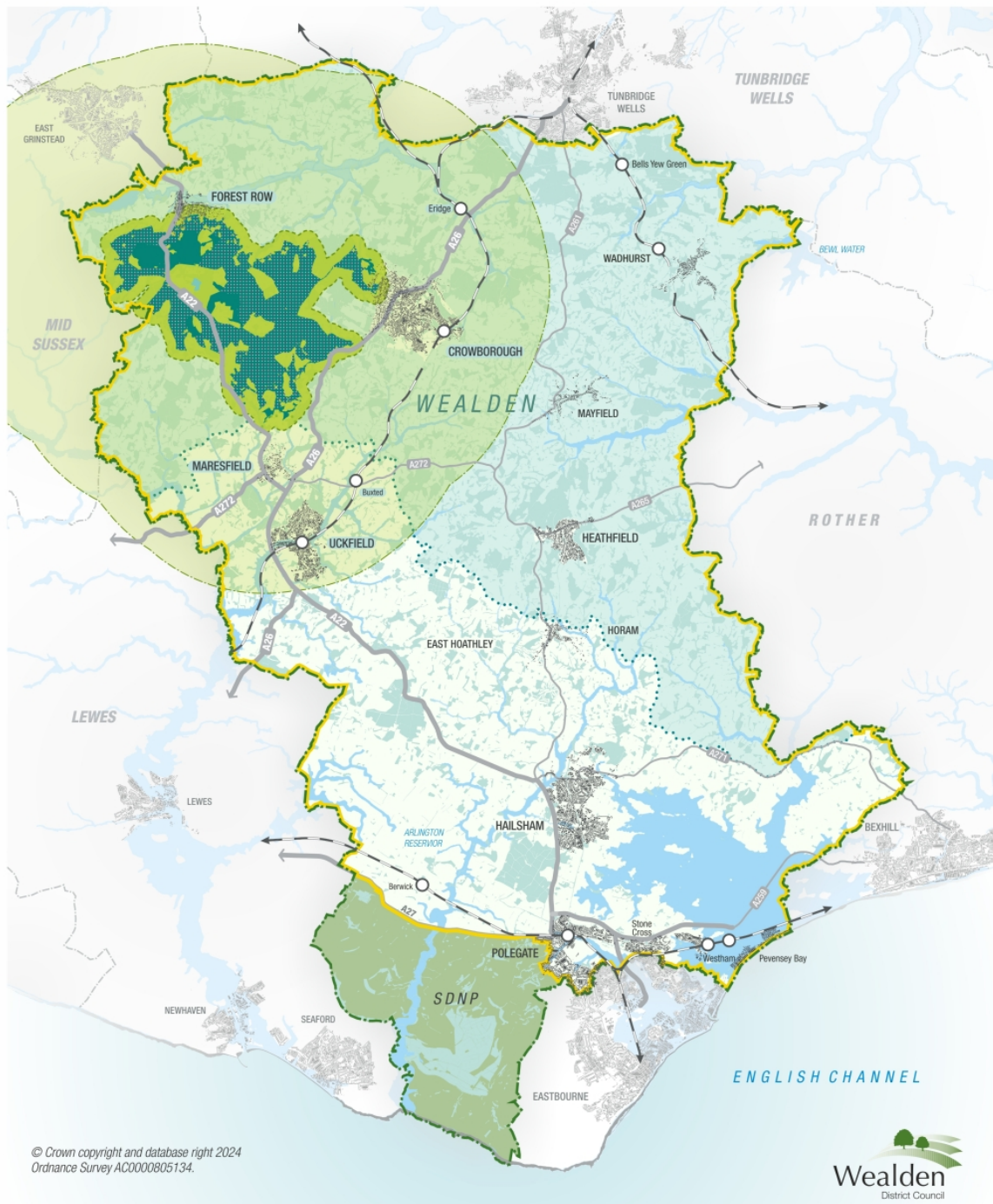
**6.106** The principle of the 400m exclusion zone is that development in close proximity to the SPA is likely to bring particularly high risks as visit rates will be higher from properties located close to the SPA and options to mitigate visits, for example through the provision of SANGs or on-site access management, are less likely to be effective. In addition, it is not considered possible to mitigate the predatory activity of domestic cats or urbanisation effects such as fly tipping. Given the impact pathways, the curtilage of a property is considered relevant for the purpose of applying the 400m residential development exclusion zone.

**6.107** In relation to the application of the 400m zone, the distance of a site from the SPA should be measured using a straight line from the SPA boundary. The Council provides a 400 metre exclusion zone map, which should be used for guidance only. The principal objective is to ensure that there is no net increase in residential units within the 400m exclusion zone and this should be measured using a straight line from the SPA to the site. Should any part of a sites curtilage fall within 400m of the SPA then the whole site will be considered to be within the 400m residential development exclusion zone.

**6.108** Both the 400m exclusion zone and the 7km zone of influence is shown in the map below. This is also shown on the Council's online mapping system. Applicants should contact the Council's Development Management team in the first instance should their proposal be within, adjacent or close to either the 400m exclusion zone or the 7km zone of influence. Where this is the case, applicants will be required to submit all relevant information alongside the planning application to enable the Council to undertake a Habitats Regulations Assessment (HRA).

**6.109** In relation to the provision of SANGs, the Council currently has two SANG sites, one in Crowborough and the other in Uckfield. Where developers are required to provide a SANG site to mitigate the impact of their development, then the SANG will be required to meet Natural England SANG Guidelines. Overall, the mitigation strategy put forward and the Habitats Regulations assessment will need to result in no adverse effect on the integrity of the SPA / SAC to meet its conservation objectives.

### Map 8 Ashdown Forest Zones



**Existing Assets**

- Wealden District Boundary
- Local Plan Area
- Major A Roads
- Minor A Roads
- Rail
- Rail Stations
- Settlements
- South Downs National Park (SDNP)
- Woodland
- Water

**Designations**

- Special Protection Area
- Special Areas of Conservation
- Special Protection Area 400m Buffer Zone
- Special Protection Area 7km Buffer Zone
- High Weald National Landscape
- South Downs National Park (SDNP)

This map is for guidance only and each site will be considered on a case by case basis in relation to its distance from the SPA.

## Question 25

### Consultation Questions

- a Do you agree with draft Policy NE5 Protecting Ashdown Forest SPA?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Landscape

**6.110** One of Wealden's principal assets is its high-quality landscape, contributing to the district's rural character as well as providing high levels of tranquillity. The quality of the landscape is reflected in nearly two thirds of the district being protected in recognition of its landscape quality. Around 53% of the district lies within the High Weald Area of Outstanding Natural Beauty (AONB), which is now a National Landscape and around 7% lies within the South Downs National Park<sup>79</sup>.

**6.111** Landscape character varies across the district and is defined by numerous processes and variables including geology, soils, topography, land cover, hydrology, historic and cultural development and climate. The combination of these processes and the resultant characteristics provide the district with a diverse and distinctive landscape as well as a historic, unique and distinctive settlement pattern. The quality of the landscape is also a valuable resource contributing to the district's rural economy, ecosystem services as well as providing opportunities for recreation. It also contributes to making Wealden an attractive place to live. A key objective of our plan is to maintain and enhance the district's landscape including its natural and built-up areas and ensuring that small changes do not cumulatively impact landscape and settlement character.

**6.112** The landscape and settlements of the district have developed over time, influenced by both our historical and current use of the land with successive cycles of reclamation and abandonment of woodland, pasture and arable land as population and agricultural pressures have changed.

**6.113** The European Landscape Convention (ELC) came into force in the UK in March 2007. The ELC applies to all landscapes, urban and rural, as well as both outstanding and degraded landscapes. The Convention is aimed at the protection, management and planning of all landscapes and raising awareness of the value of a living landscape. A specific measure promoted by the Convention includes the identification and assessment of landscape. This is also promoted by national planning guidance to assist meeting national policy, which outlines the importance of protecting and enhancing valued landscapes, including designated landscapes and the wider countryside. To inform our plan-making, we have updated our landscape evidence base which accompanies this local plan.

79 The South Downs National Park Authority is the planning authority for the national park.

**6.114** The national Landscape Character Assessment (2022) shows that Wealden District falls within three distinct National Landscape Character Areas<sup>80</sup>, including the High Weald, the Low Weald and the Pevensey Levels. The assessment then provides a finer grain of detail, identifying six landscape character types and 12 distinct landscape character areas across the district. For each of the landscape character areas, the assessment sets out the key features and characteristics that are particularly valued for their contribution to character and for the ecosystem services they provide, as well as the forces for change within the character area and landscape guidelines on how the landscape can be managed to ensure future change respects local character.

**6.115** In addition to updating our Landscape Character Assessment we have also undertaken Landscape Sensitivity Assessments. The Landscape Sensitivity Assessments consider the sensitivity of land surrounding the district's settlements as well as a consideration of landscape for sites submitted to the Council in its Strategic Housing and Economic Land Availability Assessment (SHELAA) including a separate assessment for sites located within the High Weald National Landscape<sup>81</sup> and for potential strategic growth areas<sup>82</sup>.

**6.116** All of the landscape reports provide strategic and site-specific landscape guidelines including recommendations as to how the landscape can be managed to ensure that future change respects local character.

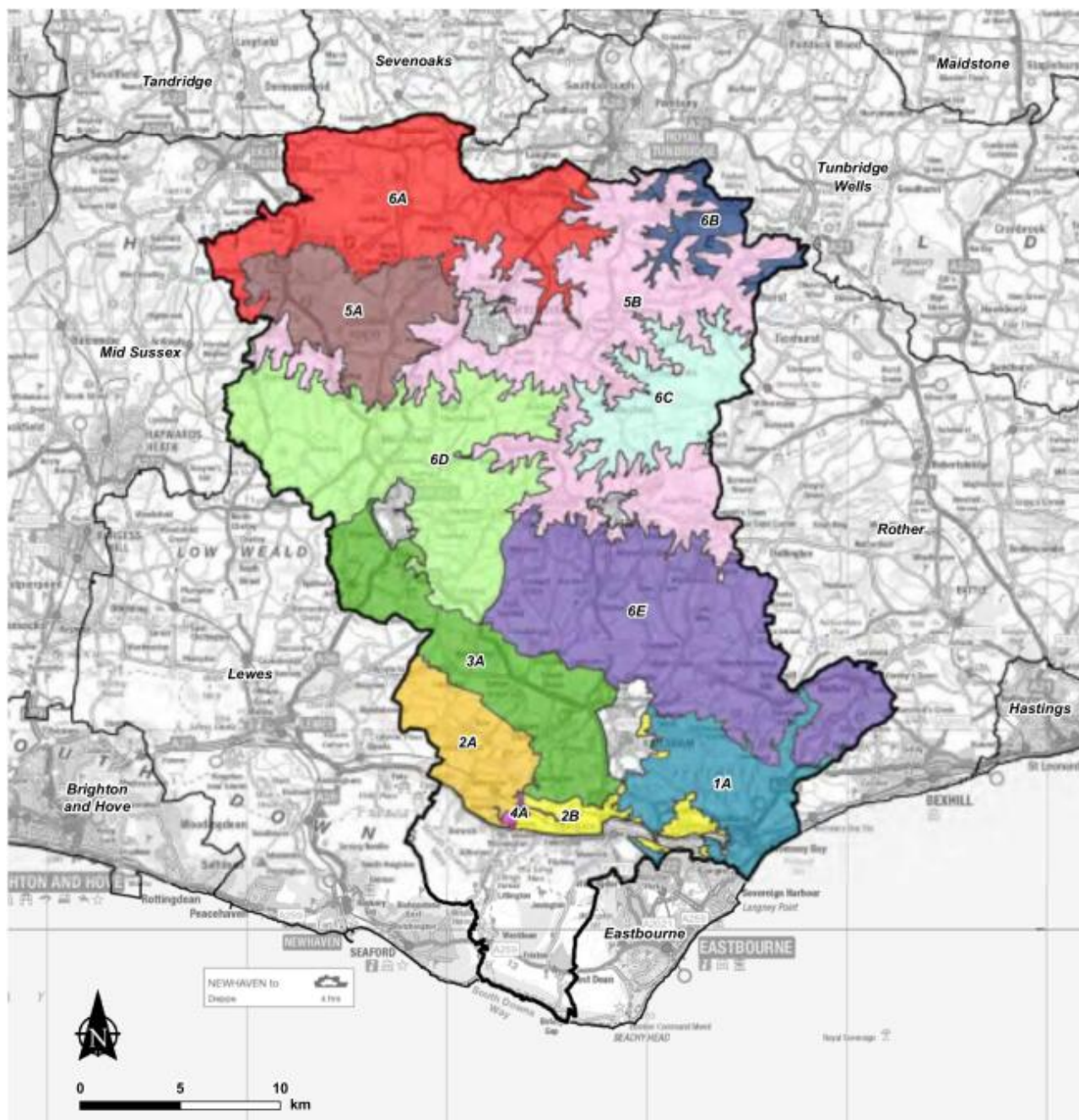
---

80 National Landscape Character Areas are defined by Natural England.

81 The Landscape Sensitivity Assessment of Sites within the High Weald AONB (2023)

82 The Wealden Landscape and Visual Appraisal (2023)

### Map 9 Wealden's Landscape Character Areas



Contains Ordnance Survey data © Crown copyright and database right 2021

CB:JT EB:Tomlinson\_J LUC FIG4\_2\_r2\_LCA\_20211123 03/12/2021 Source: OS



6.117 Policy NE6 sets out our preferred policy approach to the landscape character of the district.

## Policy NE6: Landscape Character

- 1 All new developments to adopt a landscape-led approach from the outset to their design and layout to ensure that any potential adverse effects on the landscape from the proposal are avoided, before consideration is given to any mitigation measures.
- 2 Relevant development proposals will be required to recognise the contribution of the landscape to the district's environment, economy (including tourism) and communities and will be required to demonstrate how they have had regard to the East Sussex Landscape Character Assessment, the Wealden Landscape Evidence Base, Historic Land Classification (HLC) and any other relevant guidance in their Design and Access Statements.
- 3 Development proposals will be supported where they seek to protect, maintain, enhance and/or reinforce the key characteristics and qualities of landscape character and landscape components as relevant to the location of the proposal.
- 4 Development proposals will need to demonstrate that they have considered the following in respect of their potential impact on the landscape, including any cumulative impacts:
  - a) Geology and soils;
  - b) Topography;
  - c) Hydrology;
  - d) Landcover, biodiversity and ecological character;
  - e) Biodiversity Opportunity Areas and/or other sites designated for their environmental importance;
  - f) Ecosystem services<sup>83</sup> such as food production, the regulation of the climate, the purification of air and water, flood protection, soil formation and nutrient cycling;
  - g) Historic character and landscape setting;
  - h) Heritage assets and cultural influences;
  - i) Special landscape characteristics;
  - j) The degree of openness and sensitivity of the landscape to change;
  - k) The settlement pattern, settlement character, its setting and identity;
  - l) Open and valued views;
  - m) Perceptual character including tranquillity and dark night skies;
  - n) Climate change mitigation and adaptation;
  - o) The pattern of key valued landscape features such as fields, woodland, trees, hedgerows and waterbodies; and
  - p) The pattern of roads (including footways and cycle routes), Public Rights of Way and Bridleways.
- 4 Any landscape mitigation that is required must be commensurate with the surrounding area and must seek to contribute to local distinctiveness. Where planting is considered

83 Services provided by the natural environment that benefit people.



appropriate, this must be characteristic of the local area, in keeping with the site surroundings, including any historic context, and be compatible with the underlying soils. Where appropriate, native species of local provenance should be used.

- 5 Landscape mitigation and/or planting schemes should, overall, seek to enhance the green infrastructure network.

### Supporting text

**6.118** Proposals for development should have regard to the guidance set out in the Council's landscape evidence base supporting this Local Plan as relevant and where there is likely to be an impact on landscape character, the Council will require an independent assessment, which should be proportionate to the scale and type of development proposed. In cases where the impact of development on the landscape is considered to be significant, a full landscape and visual impact assessment (LVIA) will be required. .

**6.119** Whilst native planting is desirable in countryside locations and on the boundaries of town/village and countryside it may not be wholly appropriate on urban or suburban sites. Where high quality planting is required as part of the street scene or garden landscape, ornamental planting may be appropriate. Ornamental flowering trees and shrubs can provide food for pollinators and birds / insects through flower pollen and fruits. There are some locations where non – native and parkland trees are a particular characteristic feature, such as in historic designed landscapes and gardens or even village greens and public parks.

### Question 26

#### Consultation Questions

- a Do you agree with draft Policy NE6 Landscape Character?
- b Have all of the landscape elements which development could have an impact on, either alone or cumulatively with other development, been identified at point 3 of the policy? If you consider any are missing, please state these.
- c Should we change anything? if so, what should we change and why?
- d Have we missed anything? If so, what have we missed and how should it be included?

### High Weald National Landscape

**6.120** The High Weald AONB as of 22nd November 2023 is now called the High Weald National Landscape. It is a nationally designated landscape that is afforded the highest level of landscape protection, where great weight is given to the need to conserve its landscape and scenic beauty. The primary purpose of its designation is to conserve and enhance the natural beauty of the area.

**6.121** The High Weald AONB Management Plan identifies the distinctive features of the High Weald AONB landscape and sets out the objectives for protecting, conserving and enhancing its locally distinctive features. The Management Plan also considers wider environmental issues, the rural economy and communities. The Management Plan provides an assessment framework which must be undertaken when evaluating the siting, layout and design of development including materials.

**6.122** The setting of the High Weald National Landscape is also an important consideration. Additionally, development and other activities may have an impact on the economic, social or ecological value of the landscape or its natural processes such as hydrology or pollination, as well as affecting views into and out of the protected landscape.

**6.123** Within Wealden District, parts of the High Weald National Character Area go beyond the National Landscape boundary. In these locations the landscape can share similar characteristics and landscape value as the National Landscape, as it transforms into a different character.

**6.124** The High Weald AONB Unit are currently in the process of updating the Management Plan and we will consider Policy NE7 further to ensure that it aligns with the new Management Plan as it progresses.

## Policy NE7: The High Weald AONB

- 1 Development within, or affecting the setting of, the High Weald National Landscape, as defined on the policies map, will only be permitted if it conserves and enhances natural beauty, having regard to the character of the landscape, its special qualities, its character components and functions as set out in the High Weald AONB Management Plan. Development should not detract from the visual qualities and essential characteristics of the High Weald National Landscape, including views into and out of the High Weald National landscape, in relation to its location, siting, scale or design.
- 2 The High Weald National Landscape is a living landscape and certain development may be acceptable to support the land-based economy, access to the landscape and the social well-being of communities, where this does not impact on the High Weald National Landscapes special qualities and characteristics.
- 3 Development compatible with conserving and enhancing natural beauty proposed within the High Weald National Landscape should:
  - a) Be limited in scale and extent and appropriate in terms of its nature and location;
  - b) Demonstrate a positive contribution to the objectives of the High Weald AONB Management Plan;
  - c) Have regard to the High Weald Housing Design Guide, where relevant;
  - d) Apply a landscape-led design approach that reflects the High Weald Character, using high-quality architecture;
  - e) Respond to the historic pattern and character of settlements; and
  - f) Protect tranquillity and dark night skies.

- 4 In accordance with national policy, major development will not be supported except in exceptional circumstances and where it can be demonstrated to be in the public interest<sup>84</sup>.
- 5 Development proposals will be required to submit sufficient information as part of an application to enable any impact of the proposed development to be considered, taking into account the AONB Management Plan and design guide.

### Supporting text

**6.125** The High Weald AONB Management Plan is a material consideration in planning decisions and the Council expects developers to have regard to the Management Plan from the outset of a scheme's conception. The Council will have regard to the defining components of character within the Management Plan in determining development proposals affecting the High Weald National Landscape and, where relevant, areas of the High Weald National Landscape Character Area that adjoins the designated area. Consideration will also be given to the High Weald Design Guide and High Weald Colour Study that support the Management Plan and applicants are strongly advised to consult these documents at the earliest possible stage of scheme design.

**6.126** The Council has also had regard to leading case law relating to development within AONB/National Landscape areas<sup>85</sup>. This Court of Appeal case confirmed that the “great weight” to be given to conserving areas of natural beauty (“AONBs”) under what is now paragraph 182 of the NPPF could be considered a “clear reason for refusing” planning permission under paragraph 11(d)(i) of the NPPF. The judgment also affirmed the pragmatic approach required with interpretation of planning policy.

**6.127** Arising from this, major development within the National Landscape will not be permitted unless it can be demonstrated that the development is in the public interest, in accordance with the tests set out in paragraph 183 of the NPPF. However, the Council acknowledges that there may be cases where small scale development is necessary in or adjoining the High Weald National Landscape, for example where it helps to maintain economic or social well-being. In these instances, the Council will work with applicants and the High Weald AONB Unit to ensure appropriate and acceptable development is achieved.

**6.128** Development close to the edge of the High Weald National Landscape has the potential for adverse impacts on the qualities of the landscape, including its setting, and applicants will need to take full consideration of this.

**6.129** All proposals for development in, or adjacent to, the High Weald National Landscape should be accompanied by a landscape and visual impact assessment and an assessment of the proposal against all relevant AONB Management Plan objectives.

84 See paragraphs 176 – 177 and Footnote 60 of the [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101311/nppf-2021.pdf)

85 See *Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor* (Rev 1) [2021] EWCA Civ 74 (28 January 2021): <https://www.judiciary.uk/wp-content/uploads/2022/07/R-Monkhill-v-SOS-for-Housing-and-ors-judgment.pdf>.

## Question 27

### Consultation Questions

- a Do you agree with draft Policy NE7 High Weald National Landscape?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### South Downs National Park

**6.130** The administrative area of Wealden District contains a small part of the South Downs National Park. The Local Planning Authority for this area is the South Downs National Park Authority. The development plan for this area will include the South Downs Local Plan and any relevant Neighbourhood Development Plans. The South Downs National Park boundary is marked by the A27 and beyond the escarpment of the South Downs the character area forms a gradual transition to the landscape of the Low Weald.

**6.131** Standing on top of the Downs, a significant proportion of the Low Weald and Pevensey Levels landscape can be viewed and as a result the setting of the National Park needs to be considered. Conversely, parts of the Low Weald benefit from views of the iconic South Downs and the district's residents are easily able to access this vast accessible green resource.

**6.132** The South Downs National Park Landscape Character Assessment (August 2020)<sup>86</sup> updates the previous Integrated Landscape Character Assessment (ILCA) for the South Downs National Park, which was written in 2011. The Assessment details the landscape character of the National Park, including the formative influences that have shaped the landscape as well as updates to the 2011 classifications. The assessment identifies issues that can impact the different character areas within the National Park as well as broad management objectives and landscape guidelines for each character area.

**6.133** Wealden District Council will work in partnership with the South Downs National Park Authority to conserve and enhance the landscape and scenic beauty of the South Downs National Park.

### Policy NE8: Setting of the South Downs National Park

- 1 Proposals for development on land that contributes to the setting of the South Downs National Park will only be permitted where it does not detract from, or cause detriment to, the visual and special qualities (including dark skies), tranquillity and essential characteristics of the National Park.
- 2 Development proposals should ensure no adverse impacts on any transitional open green spaces between the site and the boundary of the South Downs National Park,

86 [www.southdowns.gov.uk/landscape-design-conservation/south-downs-landscape-character-assessment/](http://www.southdowns.gov.uk/landscape-design-conservation/south-downs-landscape-character-assessment/)

nor on the views, outlook and aspect, into and out of the National Park by virtue of its location, scale, form or design.

- 3 Development should be consistent with National Park purposes and must not have a significant adverse impact on the National Park or its setting both alone or cumulatively. Assessment of such development proposals will have regard to the South Downs National Park Local Plan, the South Downs Management Plan and other relevant adopted planning documents and strategies, as relevant.

### Supporting text

**6.134** The statutory purpose for National Parks is set out in the Environment Act 1995. Section 61 provides for the two purposes of National Parks:

- i) To conserve and enhance the natural beauty, wildlife and cultural heritage of the area; and
- ii) To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

**6.135** The conservation and enhancement of the landscape contributing to the setting of the South Downs National Park will be actively supported, particularly as defined in the South Downs National Park Landscape Character Assessment (August 2020) and South Downs Integrated Landscape Character Assessment, or any other relevant update to this document.

### Question 28

#### Consultation Questions

- a Do you agree with draft Policy NE8 Setting of the South Downs National Park?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Agricultural Land

**6.136** The National Planning Policy Framework expects local planning authorities to take into account the economic and other benefits of the best and most versatile (BMV) agricultural land, which is land in Grades 1, 2, and 3a of the Agricultural Land Classification (ALC), Grade 1 being the highest. Agricultural land which falls into these categories is considered to be the most flexible, productive, and efficient in response to inputs. Grades 3b and 4 are not considered BMV agricultural land. In addition, soils are considered a finite resource that provide other important 'ecosystem services'; for example, as a store for carbon and water, as a reservoir of biodiversity, and as a buffer against pollution.

**6.137** Site specific surveys on agricultural land within the district carried out since 1988<sup>87</sup> shows the vast majority is classified as Grade 3b or lower. Over 2,849 hectares of agricultural land within the district is classified as Grade 3b or lower. This equates to around 3.5% of the total area of Wealden. In contrast, just over 940 hectares is classified as Grade 1-3a (the BMV agricultural land), equating to around 1.15% of the district.

**6.138** These figures indicate that the majority of the agricultural land surveyed within the district is not considered to be the BMV.

**6.139** The High Weald AONB Management Plan has identified a number of other issues affecting farming and the use of agricultural land:

- Fragmentation of farm holdings due to an increase in non-farming land ownership
- Declining agricultural skills, knowledge and ambition leading to a reduction in sustainable livestock production
- Increasing costs of maintaining grazing infrastructure
- Loss of green fields to development and infrastructure, or conversion to other land uses such as woodland
- Loss of high value grasslands (unimproved and semi-improved) and hedgerows through land use change, inappropriate management and lack of management.

**6.140** It is important to recognise and acknowledge that 'quality' may be determined by more than the ALC grade, and the 'economic and other benefits' such as infrastructure, fragmentation, and access, as well as the contribution land may make to wider ecosystem services and natural capital are important considerations in relation to the effects of development on agricultural land and the districts landscape character. Policy NE9 seeks to protect the BMV agricultural land taking these factors into account and seeks to direct development to poorer agricultural land where the development of agricultural land is necessary.

## Policy NE9: Agricultural Land

- 1 Where development of agricultural land is required, applicants should seek to use areas of poorer quality agricultural land in preference to that of higher quality, except where this would be inconsistent with other sustainability objectives. When determining quality, applicants should take account of the agricultural lands value in terms of its contribution to food production and wider ecosystem services and natural capital.
- 2 Where site-specific ALC studies are not available, the Local Planning Authority will assume that the site is classified as best and most versatile. Applicants will be required to submit information on the status of a site in such cases.
- 3 Planning applications that would result in the loss of best and most versatile agricultural land will need to justify why the loss of the agricultural land is acceptable and also assess the impact of the loss of the agricultural land on the wider farming resource, natural capital, and ecosystem services. The Council will seek to protect the best and most versatile agricultural land from development.

<sup>87</sup> Agricultural Land Classification detailed Post 1988 ALC survey 1990. Maps and reports for detailed Post 1988 ALC surveys done in 1990. Available at: [www.publications.naturalengland.org.uk/](http://www.publications.naturalengland.org.uk/)

## Question 29

### Consultation Questions

- a Do you agree with draft Policy NE9 Agricultural Land?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

#### Environmental protection policies

**6.141** National policy is clear that planning policies and decisions need to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air, water, light or noise pollution and that wherever possible development should help to improve local environmental conditions such as air and water quality.

#### Light pollution and dark skies

**6.142** Minimising the amount of light pollution within the district is important for the protection and enhancement of the natural environment in Wealden as well as people's health and wellbeing and quality of life. National policy is clear that planning policies and decisions should ensure that new development is appropriate for its location and in doing so should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. The PPG provides further guidance and information on what light pollution considerations developments need to address, acknowledging that artificial light provides valuable benefits to society, but that for maximum benefit, it is important to get the right light, in the right place and for it to be used at the right time. Lighting schemes can also be costly and difficult to change, so getting the design right at the outset is important.

**6.143** Wealden is currently the 20<sup>th</sup> darkest district in England. Whilst levels of darkness differ across the district, areas such as the Pevensy Levels and undeveloped areas within the countryside benefit from high levels of darkness. The South Downs National Park, located to the south of the district, is designated an International Dark Sky Reserve (IDSR).

**6.144** Lighting becomes a problem where it is excessive, poorly designed and located, badly installed or poorly maintained. It is also an issue where it is located near to sensitive receptors, such as dark sky areas or areas with specific habitats and species. For example, artificial light can negatively impact on nocturnal species, particularly bats through causing disturbance at the roost, affecting feeding behaviour, their avoidance of lit areas and also increasing chances of bats being preyed upon. It is important to ensure that lighting associated with new development does not harm the quality of dark night skies, does not contribute to sky glow, glare and light spillage or impact biodiversity and local character.

## Policy NE10: Light Pollution and Dark Skies

- 1 All proposals should have regard to relevant guidance on lighting within developments to ensure any negative impacts on the natural and built environment are avoided and mitigated.
- 2 All proposals, regardless of scale and location, must clearly demonstrate that all opportunities to reduce light pollution have been taken, and should have due regard to the following:
  - a) All opportunities to avoid the installation of lighting schemes have been investigated and taken wherever possible;
  - b) Having fully addressed (a), that the lighting scheme is necessary and appropriate for its intended use/purpose and that any adverse impacts are avoided in the first instance, or if that is not achievable, are mitigated as far as possible;
  - c) The design of the lighting scheme has fully considered the light source and intensity being used, the luminaire design, height, and angle, including any baffles and cut-off shields where required;
  - d) The means of lighting would not cause an unacceptable level of impact on wildlife, local heritage assets, or the wider landscape;
  - e) The lighting scheme is energy efficient and uses low energy LED where possible; and
  - f) There are control mechanisms to dim or switch off external lighting schemes when not required.
- 3 Specific consideration should be given to the dark skies of the High Weald National Landscape, having regard to the ILP guidance for such landscape designations and as set out in the High Weald AONB Management Plan and High Weald Design Guide, for lighting schemes on developments within or adjacent to the High Weald National Landscape.
- 4 Any development proposals on land that contributes to the setting of the South Downs National Park must take full account of the Parks International Dark Sky Reserve status when designing any lighting schemes. Development must have regard to the relevant policies on dark night skies within the [South Downs Local Plan 2011-2033](#).

### Supporting text

**6.145** Policy NE10 applies across the district, with particular consideration given to schemes within or adjacent to the High Weald National Landscape and on land that contributes to the setting of the South Downs National Park and its Dark Sky Reserve. The policy applies to any proposals which involve the installation of external lighting and where the design of developments may result in light spill from internal lighting. It will also apply to specific lighting schemes which require planning permission or listed building consent.

**6.146** All development proposals should have regard to relevant national policies on light pollution and dark skies, as well as industry guidance on lighting, including but not limited to, the Institute of Lighting Professionals (ILP) Guidance Note GN01: The Reduction of Obtrusive



Light<sup>88</sup> and the Updated 'Bats and Artificial Lighting in the UK' Guidance Note GN 08 23<sup>89</sup> (and any subsequent revisions).

**6.147** In order to ensure that dark night skies are protected and enhanced, installation of lighting should be avoided and, where lighting is demonstrated to be necessary, the design and installation should be such that adverse impacts are avoided or, if not achievable, mitigated to the greatest possible extent.

**6.148** Proposals will need to fully consider the overall visual impact that the lighting will have on the landscape. This may include ground surface reflectivity, the number of lights, the daytime intrusion and the general overall footprint of the lighting. It is also necessary to consider the visibility of the lights from the surrounding landscape.

**6.149** The spill of lights from large open glass windows and sky lights often present a greater source of light pollution than externally mounted lights. Consequently, it is important to control the lighting coming from these types of developments. The design of buildings should reduce the impact of light spill from internal lighting or suitable mitigation measures should be put in place.

**6.150** Habitats, particularly woodlands, should not be considered as a 'natural shield' to lighting, because of the impact on an unlit habitat. Lighting that would spill into sensitive habitats should be shielded or removed, particularly if nocturnal species are present. Direct illumination of bat roosts and key foraging areas and/or commuting routes must be avoided.

**6.151** Where a proposal involves outdoor lighting, a statement will be required to justify why the proposed lighting is required for its intended use and that shows every reasonable effort has been made to mitigate skyglow and light intrusions. Any statement should be proportionate to the size and likely impacts of the scheme.

**6.152** The position and orientation of sensitive receptors should be taken into account at the earliest stages of any scheme design and in consideration of the developments location. Applicants will be required to provide sufficient information on the likely impacts of any potential light pollution from a development, clearly showing how the development has sought to avoid light pollution as far as possible and how any mitigation measures will be implemented. This information can be included within the Design and Access Statement or as a standalone report.

### Question 30

## Consultation Questions

- a Do you agree with draft Policy NE10 Light Pollution and Dark Skies policy?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

88 [Guidance Note 1 for the reduction of obtrusive light 2021 | Institution of Lighting Professionals \(theilp.org.uk\)](#)

89 [Guidance Note 8 Bats and Artificial Lighting | Institution of Lighting Professionals \(theilp.org.uk\)](#)

## Noise Pollution

**6.153** Wealden is mainly a rural district and as a result there are areas of recognised tranquillity and landscapes of national and local significance. Noise pollution has the potential to have a significant impact on these areas where the ambient noise levels are low. The district also benefits from a number of urban areas where concentrations of development have the potential to affect residential amenities by virtue of noise impacting health and well-being and quality of life.

**6.154** The planning system has a role in seeking to ensure that new noise-sensitive development, such as housing and schools, is not located close to existing sources of noise and vibration, including industrial uses and noise generated by transport. It should also ensure that potentially noise-creating uses, such as some industrial processes or some recreational activities, are not located where they would be likely to cause nuisance.

**6.155** The purpose of Policy NE11 is to ensure that noise issues and appropriate mitigation and acoustic measures are addressed and incorporated into the design of development proposals at an early stage, so as not to harm the natural environment or residential amenity.

### Policy NE11: Noise Pollution

- 1 Within the district, areas of tranquillity; nationally designated landscapes; designated nature conservation sites and occupants of residential properties, will be protected from unacceptable levels of noise as a result of development.
- 2 Development proposals for noise sensitive uses<sup>90</sup> are required to clearly identify any likely adverse noise impacts on the sensitive receptors that are intended to use or occupy the development from existing nearby sources of noise.
- 3 Development proposals for noise generating uses<sup>91</sup> are required to clearly identify any likely adverse noise impacts arising from the proposed<sup>1</sup> development on existing nearby sensitive receptors, including the natural environment.
- 4 Planning applications will be required to include a Noise Impact Assessment where consideration under (2) and (3) indicates the potential for Observed Adverse Effect Levels of noise. The Assessment must be undertaken by a suitably qualified person and consider the relationship in detail.
- 5 Where evidence of an Observed Adverse Effect Level noise impact exists, applicants are required to demonstrate how the proposed development will be designed and implemented in order to:
  - a) prevent any present and very disruptive Significant Observed Adverse Effect levels<sup>92</sup>.
  - b) avoid any present and disruptive Significant Observed Adverse Effect levels; and

90 Land uses where sensitive receptors are concentrated, including residential, schools and nurseries, hospitals, care facilities, and certain public amenities.

91 Land uses that have the potential to generate levels of noise capable of resulting in adverse effects on the health and quality of life of sensitive receptors, including commercial and industrial land uses, sports and leisure facilities, and places of entertainment (bars, pubs, clubs, music venues, etc).

92 This is the level of noise exposure above which significant adverse effects on health and quality of life occur.

c) mitigate any present and intrusive Lowest Observed Adverse Effect levels<sup>93</sup>.

6 Development proposals will be supported where:

a) Development is located and designed to minimise the impact of noise on areas of tranquillity and where residential properties / occupants will not be exposed to an unacceptable noise impact that adversely affects the amenity of existing or future users;

b) Good design is used to improve and enhance the acoustic environment and reduce the impact of noise generated by the development; and

c) The impact of noise on the surrounding environment and noise sensitive receptors is satisfactorily mitigated through noise attenuation measures.

7 Where there will be an unacceptable adverse effect on sensitive receptors which cannot be adequately prevented, avoided, and/or mitigated, planning applications will be not be supported.

8 Planning conditions will be used to ensure that mitigation measures are satisfactorily implemented.

### Supporting text

**6.156** The NPPF requires planning policies and decisions to ensure that new development is appropriate for its location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions, and the natural environment. This should be achieved by mitigating, and reducing to a minimum potential, adverse impacts resulting from noise from new development.

**6.157** Development proposals that are likely to generate noise, or be affected by existing noise sources, must be supported by a Noise Impact Assessment prepared by a suitably qualified and competent person, as defined by the NPPF.

**6.158** Information is available in Defra's latest Explanatory Note to the Noise Policy Statement for England<sup>94</sup>. Reference should be made to this guidance (or any subsequent guidance) prior to, and, where appropriate, in the submission of a planning application and development proposals should seek to achieve the aims set out in the Statement.

**6.159** There is also further information and guidance contained in the National Planning Practice Guidance (Noise). This guidance provides noise and vibration criteria for developers where new proposals are being made that will generate noise or vibration, are in a noisy location, or are in a noise-sensitive area, in order to ensure that the potential or existing noise/vibration levels in the area are acceptable. As a starting point, it is expected that new development will not increase background noise levels.

**6.160** There are other statutory provisions for noise beyond planning legislation, including the Control of Pollution Act 1974, which deals with site construction noise, and legislation such as the Environmental Protection Act 1990, which deals with statutory nuisance. Any matters in respect of noise generated by minerals and waste related activity should be referred East Sussex County Council.

93 This is the level of noise exposure above which adverse effects on health and quality of life can be detected.

94 Available at: [www.gov.uk/government/publications/noise-policy-statement-for-england](http://www.gov.uk/government/publications/noise-policy-statement-for-england).

**6.161** If the proposed development cannot be made acceptable from a noise perspective, the applicant should consider whether the existing noise-generating or noise-sensitive use that would be affected by the new development could be adapted (i.e. soundproofed). Where this includes the use of off-site measures, the applicant is responsible for ensuring that the measures are implemented and must provide agreement from the owners of the off-site property.

### Question 31

## Consultation Questions

- a Do you agree with draft Policy NE11 Noise Pollution?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Air Quality

**6.162** Poor air quality, caused by harmful pollutants, can have a significant negative impact on both human health and biodiversity. Air quality in the district is generally good and at present there are no areas in Wealden where people are exposed to levels of pollutants in excess of the UK Air Quality Objectives. There are also no Air Quality Management Areas within the district. However, air quality issues have the potential to arise from developments that may generate significant levels of traffic, introduce a new source of air pollution or expose people to existing sources of air pollution.

**6.163** The effects of poor air quality on ecosystems and their function have been well documented within the scientific literature. The planning system has a role in seeking to improve air quality through actively managing patterns of growth and focusing development on locations which are, or can be made, sustainable through limiting the need to travel and offering a genuine choice of transport modes i.e. walking, cycling and public transport. It also has a role in contributing to and enhancing the natural and local environment by seeking to prevent new and existing development from being put at unacceptable risk from, being adversely affected by or contributing to unacceptable levels of air pollution, and wherever possible, helping to improve local air quality.

## Policy NE12: Air Quality

- 1 Development proposals should seek to improve air quality and reduce the effects of poor air quality, ensuring compliance with the objectives set out in the latest Air Quality Strategy for England, in place at the time of the application, the Air Quality and Emissions Mitigation Guidance for Sussex and/or any subsequent local air quality objectives.
- 2 Development proposals will only be supported where they:

- a) Do not result in significant adverse impacts on sensitive receptors, including human health, sensitive habitats and species and any sites designated for their nature conservation value, from any sources of emissions to air;
  - b) Are not located where they would be at unacceptable risk from, or be adversely affected by existing sources of odour, dust and /or other forms of air pollution; and
  - c) Minimise any air quality impacts, including cumulative impacts from extant developments, both during the construction process and lifetime of the proposed development, either through the design of the development or, where this is not possible or sufficient, through appropriate mitigation measures.
- 3 Development proposals are required to include a detailed Air Quality Assessment, where:
- a) major development is proposed and has the potential, including when combined with the cumulative effect of other approved developments and site allocations, to have significant adverse impacts on air quality; or
  - b) the proposed development has the potential to result in significant adverse impacts and is within, and in close proximity to a sensitive habitat and/or species, including any site designated for its nature conservation value; or
  - c) development would introduce or intensify sensitive uses within an area that is known to experience existing poor air quality conditions.
- 4 Where an Air Quality Assessment identifies potential significant adverse impacts on sensitive receptors from any source, the applicant must detail the appropriate avoidance and mitigation measures that will be implemented to prevent the identified impacts, including impacts on future occupiers or users of the site.
- 5 Mitigation measures on a scheme will be secured through planning condition and / or planning obligation depending on the scale and nature of the development and its associated impacts on air quality.

## Supporting text

**6.164** The Council recognises and acknowledges the potential impact of poor air quality on human health, biodiversity, and local amenity and will ensure that unacceptable levels of poor air quality and odour does not result from new development. To achieve this, applicants will need to satisfactorily demonstrate that there is not an unacceptable impact on air quality from the development proposal.

**6.165** For general guidance on the consideration of air quality within the planning process, applicants should refer to national Planning Practice Guidance<sup>95</sup>. Further guidance on the consideration of air quality within development is available on the Institute of Air Quality Management's (IAQM's) website<sup>96</sup>.

**6.166** Where an Air Quality Assessment is required, the applicant should seek confirmation from the Council's Environmental Health Services on the appropriate approach and methodology to be used in conducting the assessment. The specific approach and methodology required

95 [Air quality - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

96 Available at: [Guidance – IAQM](#).

for each assessment should be tailored to address the key issues driving the need for the assessment. In all cases, the Air Quality Assessment should be undertaken using an approach that is appropriate to the scale of the likely adverse impacts.

**6.167** In order to ensure that a consistent approach is used in producing Air Quality Assessments, all assessments are expected to be prepared in accordance with guidance provided by Environmental Protection UK and the Institute of Air Quality Management: 'Land-Use Planning & Development Control: Planning For Air Quality' (2017)<sup>97</sup>. Detailed guidance on the assessment of air quality impacts on sensitive habitats and sites designated for their nature conservation value has also been published by the Institute of Air Quality Management (2020)<sup>98</sup>.

**6.168** Applicants should demonstrate that the design and implementation of the proposed development:

- Will be in line with the 'good practice' principles outlined in the IAQM guidance, or any updated published guidance that replaces or supplements this.
- Will contain the information set out at paragraph 6.22 (a) - (m) of that guidance.

**6.169** Applicants are also advised to refer to the Chartered Institute of Ecology and Environmental Management (CIEEM) 'Advisory Note: Ecological Assessment of Air Quality Impacts' (2021)<sup>99</sup>, which sets out:

- the serious adverse biochemical impacts that various air pollutants may have on sensitive habitats.
- the serious impacts of excessive nitrogen deposition on sensitive habitats, such as ancient woodland.

**6.170** Where an Air Quality Assessment identifies potential significant adverse impacts on sensitive receptors, an Emissions Mitigation Assessment must be completed. The Emissions Mitigation Assessment must:

- detail the appropriate avoidance and mitigation measures that will be implemented to prevent significant adverse impacts on sensitive receptors, including future occupiers or users of the site, from any sources of emissions to air.

**6.171** Emissions Mitigation Assessments should normally be submitted as part of the overall Air Quality Assessment and inform the conclusions made within it.

**6.172** Where an Air Quality Assessment identifies potential significant adverse impacts on internationally or European designated nature conservation sites, an HRA will be required. In relation to Ashdown Forest please see Policy NE9 Ashdown Forest SPA and SAC. Other international / European sites in / near to Wealden include Lewes Downs SAC and Pevensy Levels.

**6.173** Development proposals should also promote opportunities for walking, cycling, public transport and congestion management measures such as travel plans (and initiatives) to reduce traffic levels and improve air quality and demonstrate a shift towards the use of sustainable and low emission modes of transport (including EV).

---

97 Available at: [air-quality-planning-guidance.pdf \(iaqm.co.uk\)](https://www.iaqm.co.uk/air-quality-planning-guidance.pdf).

98 Available at: [air-quality-impacts-on-nature-sites-2020.pdf \(iaqm.co.uk\)](https://www.iaqm.co.uk/air-quality-impacts-on-nature-sites-2020.pdf)

99 Available at: [Air-Quality-advice-note.pdf \(cieem.net\)](https://www.cieem.net/Air-Quality-advice-note.pdf)

## Question 32

### Consultation Questions

- a Do you agree with draft Policy NE12 Air Pollution?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Water Environment and Water Infrastructure

**6.174** Wealden District is located in an area of serious water stress and therefore development must be planned to minimise its impact on water resources and water quality and to provide resilience against the impacts of climate change including security of water supply. Maintaining and enhancing the water quality of above and below ground water bodies is not only important for water supply, but can also provide valuable habitats for species and a desirable amenity and recreational resource.

**6.175** A growing population and an increase in development will add additional pressure for the existing sewerage and wastewater systems, which ultimately discharges into rivers and other waterbodies. Additional flows can be mitigated to some degree by water efficiency measures within a development, however the biological load transferred to water treatment works will likely increase with a population increase. This will need to be addressed through technological improvements at wastewater treatment works, as well as the potential expansion of existing treatment works or development of new treatment works.

**6.176** New development can also impact on water quality through the creation of diffuse pollution from surface water runoff, which is a significant factor in compromising the water quality standards that are required under the [Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#). The Regulations establish a statutory framework for the protection of ground water and inland surface water, estuaries, and coastal waters.

**6.177** Wealden district is covered by the South East River Basin District and the South East River Basin Management Plan (RBMP), prepared by the EA and published in 2016<sup>100</sup>. The RBMP provides a framework for protecting and enhancing the benefits provided by the water environment and highlights the areas of land and bodies of water that have specific uses that need special protection. These include waters used for drinking water, bathing, commercial shellfish harvesting, and those that sustain wildlife species and habitats. The plan ensures that these areas have legally binding objectives in place to enhance water quality and prevent deterioration of water bodies.

**6.178** South East Water supplies water across the whole district and developers should review the company's Water Resources Management Plan (2020-2080) for an overview of how

100 The Environment Agency has submitted the proposed update to the RBMPs to the Secretary of State for the Environment, Food and Rural Affairs to consider, and if content, approve for publication. Submission was in October 2022. The current river basin management plans are still applicable until these updated plans are approved and published. The Environment Agency has prepared the proposed update to the RBMPs in line with [ministerial guidance](#) and the [Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#).

water will be managed in the region into the future. Southern Water supplies wastewater services across the district and its Drainage and Wastewater Management Plan(s) provides a framework for how the company's plans and investment will be integrated alongside those of organisations that have responsibilities relating to drainage, flooding, land management, land use planning and protection of the environment, including the Council.

**6.179** The Environment Act also sets out measures to secure long-term, resilient water and wastewater services as well as reforming elements of abstraction licensing to link more tightly to the 25 Year Environment Plan goal of restoring water bodies to as close to their natural state as possible.

**6.180** The planning system has a role in seeking to ensure that water resources are managed in a sustainable way, including taking account of the impacts of climate change, as well as in protecting the quality of the water environment. National policy seeks to ensure that local plans make sufficient provision for water supply and wastewater infrastructure as well as taking account of the long term implications for water supply from climate change alongside preventing new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution and that wherever possible development should help to improve water quality.

**6.181** Policy NE13 sets out our preferred approach to protecting and sustainably managing the water environment in Wealden to ensure benefits for both nature and our residents.

## Policy NE13: Water Environment and Water Infrastructure

### Water environment

- 1 Development will only be permitted where it can be demonstrated that it would not result in an unacceptable risk to, or adversely affect, the quality, quantity, levels and ecology of surface water and groundwater resources within the district, including reservoirs. Applicants must have due regard to the Environment Agency's Groundwater Protection guides in relation to potentially hazardous development proposed within a Source Protection Zones (SPZs) or within 50m of a private water supply.
- 2 Development proposals must account for possible groundwater contamination in SPZs and where aquifers are present. Proposals will only be supported where it can be demonstrated that adequate safeguards against possible contamination of groundwater supplies or aquifers can be agreed, implemented and maintained.
- 3 New development adjacent to watercourses should seek to restore rivers to their natural state, including through de-culverting piped watercourses, where possible.
- 4 Any development adjacent to, over or in a watercourse needs to take into account the Water Framework Directive requirements and opportunities outlined in the South East River Basin Management Plan.
- 5 Potentially polluting development will not be permitted where there is a risk that it will cause harm to sensitive aquatic environments/areas within the district.
- 6 Work beneath the water table will not be permitted unless there is a comprehensive ground water management scheme agreed for the construction, operation, restoration, and ongoing management of the proposal.



### Water Infrastructure

- 7 Development proposals must demonstrate that there is adequate existing water supply infrastructure (foul and surface drainage as well as drinking water provision) to serve the development over its lifetime. Where provision is inadequate / not available, proposals must set out how the appropriate infrastructure improvements will be completed prior to the development's occupation. Any such proposals must be approved by the statutory undertaker.
- 8 Development should connect to a public sewage treatment works. If this is not feasible, proposals should be supported by sufficient information to understand the potential implications for the water environment.
- 9 In the interests of securing long-term water supply and wastewater management needed to serve existing or new development, proposals for new, or the expansion of existing, water supply or sewage treatment facilities and networks will be permitted provided that:
  - a) the need for such facilities outweighs any adverse land use or environmental impacts; and
  - b) that any such adverse impact is mitigated / minimised.
- 10 Necessary infrastructure provision will be secured through planning conditions and / or obligations.

### **Supporting text**

**6.182** The Council will support development proposals where the quantity and quality of surface and groundwater resources are protected from pollution and where possible enhanced.

**6.183** Developers will be required to demonstrate that there is adequate on and off-site water infrastructure capacity, or that additional infrastructure can be provided in time, to serve the development, without leading to problems for existing users. Developers will need to show that they have engaged with service providers at the earliest opportunity to establish the proposed development's demand for water supply and wastewater infrastructure and how this can be met. This may result in the need for developers to undertake appropriate studies to ascertain whether the proposed development will lead to overloading of existing water and wastewater infrastructure.

**6.184** Applicants should have regard to South East Water's WRMP (2020-2080) and Southern Water's Drainage and Wastewater Management Plan in the design and construction of a development and the Council will encourage and support developments which seek to achieve relevant and appropriate requirements of these Plans.

**6.185** Where there is a capacity constraint and no improvements are programmed by the statutory undertaker the developer will need to liaise with the statutory undertaker/s to agree the improvements required and how these will be funded prior to any occupation of the development.

**6.186** Development that would cause an unacceptable risk to surface or ground water resources will not be permitted. Where development is allowed, the Council will require developers to undertake measures to ensure that surface or ground water resources, including ponds, streams, and other watercourses, are not contaminated and where possible water

quality is enhanced. If adequate mitigation cannot be provided against any significant adverse impact on water quality, the application will be refused. Proposals within any groundwater Source Protection Zone (SPZ) will be expected to provide full details of the proposed construction of new buildings and construction techniques, including foundation design.

**6.187** Applicants considering development proposals within a SPZ that could potentially affect groundwater should hold pre-application discussions with the Council and the Environment Agency. Applicants should refer to the [Environment Agency's Groundwater Protection guides](#) in relation to potentially hazardous development proposed within a SPZ or within 50m of a private potable groundwater source.

### Question 33

## Consultation Questions

- a Do you agree with draft Policy NE13 Water Environment and Water Infrastructure?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?

### Contaminated Land and Land Stability

**6.188** Failing to deal adequately with contaminated and / or unstable land could cause harm to people's health, property and the wider environment. It could also limit or preclude new development and undermine compliance with the [Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017](#).

**6.189** The planning system has a role in seeking to ensure land / sites are suitable for a proposed use, taking account of ground conditions and any risks arising from land instability and contamination, including risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation, as well as the potential impacts on the natural environment arising from that remediation.

**6.190** The planning system works alongside a number of other regimes including:

- The system for identifying and remediating statutorily defined contaminated land under Part 2A of the Environmental Protection Act 1990;
- Building Regulations, which require reasonable precautions to be taken to avoid danger to health and safety caused by contaminants in ground to be covered by buildings and associated ground; and
- Environmental Permitting Regulations, under which an environmental permit from the Environment Agency or Local Authority is normally required to cover the treatment and/or redeposit of contaminated soils if the soils are 'waste' and under the same regulations, a site condition report is required for any facility where there may be a significant risk to land or groundwater (including where one is necessary to satisfy the requirements of the Industrial Emissions Directive)

**6.191** Contamination can arise from a wide variety of activities and sources, both from human activity and natural processes / phenomenon. Contamination by previous land uses on or adjacent to the land, as well as invasive/harmful plants, can present a potential source of contamination to land and/or pollution of groundwater. National policy is clear that the onus is on the developer and / or landowner to ensure that all proposals are situated on land where it will be safe and suitable for the proposed use.

**6.192** Policy NE14 sets out our preferred approach to dealing with development where contaminated and / or unstable land is present.

## Policy NE14: Contaminated Land and Land Stability

- 1 Proposals on sites where land contamination/instability is known or suspected, or the site is within the vicinity of contaminated/unstable land, are required to submit appropriate Site Risk Assessments, which establish the full nature and extent of any land contamination/instability that may adversely affect sensitive receptors<sup>101</sup>, both on-site and in the surrounding area.
- 2 Where evidence of contamination is identified, an Options Appraisal and Remediation Strategy are required to be submitted and agreed with the Council, and they must demonstrate that the land is to be made safe for its intended purpose, detailing:
  - a) the appropriate sustainable remediation measures that will be implemented in order to prevent and/or avoid significant harm to sensitive receptors, both on-site and in the surrounding area, including future users of the site;
  - b) the appropriate mitigation measures that will be implemented in order to reduce to a minimum any risks presented to the health of sensitive receptors from land contamination;
  - c) that there is no inappropriate risk to a waterbody, including groundwater and aquifers; and
  - d) that there will be no adverse impact by the removal and treatment of the contamination on human or ecological health.
- 3 If suitable remediation cannot be provided, or the relevant reports indicate that there will be an unacceptable adverse impact on sensitive receptors which cannot be adequately prevented, avoided, and/or mitigated, planning permission will be refused.
- 4 In addition to remediation, development proposals should take adequate and effective measures in order to avoid risks to the structural integrity of buildings or structures on or adjoining the site.

### Supporting text

**6.193** It is important to consider ground conditions when preparing development proposals and any risks from land instability or contamination. For general guidance on the consideration

<sup>101</sup> Sensitive Receptors - Features that are prone to damage from pollution, such as living organisms (including humans), ecological systems, land use, controlled waters, groundwater and the natural environment

of land affected by contamination within the planning process, applicants should refer to national Planning Practice Guidance.

**6.194** Pre-application discussions with the Council, the relevant pollution control authority and stakeholders with a legitimate interest, for example East Sussex County Council in relation to drainage and SuDS approval, will be useful where contamination is an issue. All investigations and subsequent remediation should be carried out in accordance with the Environment Agency's Land Contamination Risk Management (LCRM) Guidance<sup>102</sup>, or equivalent/successor procedures, by a competent person. The guidance requires a 3 stage approach to assessing and managing the risks from contaminated land and the Environment Agency expects these stages to be followed by applicants.

**6.195** At each stage of the LCRM process, the development proposal must demonstrate compliance with relevant British Standards. Relevant British Standards are noted in the Environment Agency's guidance. The general site investigation standards are:

- BS 10175: Investigation of potentially contaminated sites - code of practice; and
- BS 5930: Code of practice for ground investigations

**6.196** Reference should also be had to national guidance on contaminated land<sup>103</sup>. Further technical guidance on the management of contaminated land, including how to investigate, assess and manage the risks is drawn together by the Environment Agency in their land contamination: technical guidance<sup>104</sup>.

**6.197** Where a site subject to a planning application includes land that is known or suspected to be affected by contamination/instability, applicants are required to submit a Site Risk Assessment. Site Risk Assessments must be completed in accordance with the Environment Agency's LCRM guidance (Stage 1) and should be appropriate for the scale of the likely risk presented by the potential contamination/instability. Where required, the Site Risk Assessment must be completed during the early stages of the design and preparation of the development proposal, in order to identify and address issues early.

**6.198** Should the Site Risk Assessment identify evidence of land contamination/instability, an Options Appraisal and Remediation Strategy will be required. The Options Appraisal and Remediation Strategy must be produced in accordance with the Environment Agency's LCRM guidance (Stages 2 and 3 respectively). Where a Remediation Strategy cannot demonstrate that the proposed development site would be remediated appropriately, or if insufficient information is provided to make this determination, the planning application will be refused.

### Land contamination and water quality

**6.199** Any site that may be contaminated to some degree by virtue of its previous usage forms a potential risk to water quality, especially if redevelopment takes place. The Environment Agency requests any potential developers of such a site to contact the Agency at their earliest opportunity to discuss the need for historical information and site investigations to determine the degree of contamination, if any, of both soil and ground water.

**6.200** It is crucial that development does not cause contamination to groundwater as this provides a third of the drinking water in England and Wales and maintains the flow in many rivers. The Environment Agency has identified SPZs and maintains maps showing the three

---

102 Available at: [Land contamination risk management \(LCRM\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/land-contamination-risk-management-lcrm)

103 Available at: [Contaminated land: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/contaminated-land-overview).

104 Available at: [Land contamination: technical guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/land-contamination-technical-guidance).

main zones: inner (zone 1), outer (zone 2) and total/source catchment (zone 3) in addition to a range of sub-zones. The main areas of SPZs in the district are located in the south around Willingdon and Alfriston (at the foot of the chalk South Downs) and in the north around Eridge, Groombridge, Mayfield and Forest Row.

**6.201** Applicants considering development proposals within a source protection zone that could potentially affect groundwater should hold pre-application discussions with the Council and the Environment Agency. Applicants should refer to the [Environment Agency's Groundwater Protection guides](#) in relation to potentially hazardous development proposed within a SPZ.

**6.202** Planning permission will only be granted when it can be clearly demonstrated that the development can proceed as proposed without causing pollution to controlled waters, including groundwater; harm to the natural environment and biodiversity or pose significant risks to human health as a result of land contamination or instability.

**6.203** Planning conditions will be applied to manage any outstanding detailed surveys, investigation, modelling, remediation and verification, and in order to secure appropriate pollution prevention and mitigation measures and land stability measures as appropriate.

### Question 34

## Consultation Questions

- a Do you agree with draft Policy NE14 Contaminated Land and Land Stability?
- b Should we change anything? if so, what should we change and why?
- c Have we missed anything? If so, what have we missed and how should it be included?