

## **Report to Dover District Council**

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Inspectors appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Dover District Local Plan to 2040**

The Plan was submitted for examination on 31 March 2023

The examination hearings were held between 15 November and 16 December 2023

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## Abbreviations used in this Report

AONB	Area of Outstanding Natural Beauty
DPA	Dwellings per annum
EDNA	Economic Development Needs Assessment Update
FRA	Flood Risk Assessment
GTAA	Gypsy and Traveller and Travelling Showperson Accommodation Assessment
HRA	Habitats Regulations Assessment
HELAA	Housing and Economic Land Availability Assessment
IDP	Infrastructure Delivery Plan
KCC	Kent County Council
LVIA	Landscape and Visual Impact Assessment
LGS	Local Green Space
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SPA	Special Protection Area
SAC	Special Area of Conservation
SAMM	Strategic Access Mitigation and Monitoring
SFRA	Strategic Flood Risk Assessment
SHMA	Strategic Housing Market Assessment
SANG	Suitable Alternative Natural Greenspace
SPD	Supplementary Planning Document

## Non-Technical Summary

This Report concludes that the Dover District Local Plan to 2040 provides an appropriate basis for the planning of the district, provided that a number of main modifications are made to it. Dover District Council has specifically requested that we recommend any main modifications necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed main modifications and, where necessary, carried out a Sustainability Appraisal and Habitats Regulations Assessment of them. The main modifications were subject to public consultation over a six-week period. We have recommended their inclusion in the Plan after considering all the representations made in response to the consultation. In summary, they:

- Provide a list of policies in the existing development plan to be replaced or superseded by the Dover District Local Plan.
- Insert a settlement hierarchy in the main body of the Plan, rather than the Appendix.
- Modify Policy SP4 to make it clear when residential windfall development will be permitted.
- Identify the former Snowdown Colliery (Policy SAP26) and Dover Western Heights (Policy SAP4) as Heritage Regeneration Opportunity Sites.
- Modify Policy SAP1 by requiring a revised masterplan and phasing and delivery strategy for the remaining phases and land parcels without planning permission at the Whitfield Urban Expansion.
- Require development proposals on land between Eythorne and Elvington (Policy SAP28) to maintain a physical and visual separation between the settlements.
- Modify Policy SAP36 (land at St Andrews Gardens, Shepherdswell) to require access between land parcels in different ownership.
- Delete site STM010 (land between Salisbury Road and The Droveway).
- Modify the site boundary and dwelling capacity for Policy SAP52 (Prima Windows, Nonington).
- Modify Policies H3 and H4 relating to the accommodation needs for gypsies and travellers and travelling showpeople.
- Make it clear which sites are allocated for employment uses and their size.
- Modify Policies SP1 and CC1-CC6 to make it clear what is expected of development proposals in relation to sustainable design and climate change.
- Delete restrictions on the location of overnight lorry parking facilities in Policy TI4.
- Modify Policies NE1 and NE3 to make it clear how biodiversity net gain will be assessed and set out the requirements for development proposals affecting the Thanet Coast and Sandwich Bay Special Protection Area.
- Update the housing trajectories in the Plan.

A number of other main modifications are also recommended to ensure that the Plan is positively prepared, justified, effective and consistent with national planning policy.

## Introduction

1. This Report contains our assessment of the Dover District Local Plan to 2040 in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. Paragraph 35 of the National Planning Policy Framework ('the Framework') (2021) states that to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. On 19 December 2023 a revised Framework was published. However, it includes a transitional arrangement which indicates that, for the purpose of examining this Plan, the policies in the 2021 Framework apply. Therefore, unless stated otherwise, any references to the Framework in this Report relate to the 2021 version.
3. On 30 July 2024 a revised draft Framework was published for consultation. Because this is currently only a draft document, and therefore may be subject to change, we have not taken it into account as part of this examination.
4. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Dover District Local Plan to 2040, submitted in March 2023, is the basis for the examination. It is the same document that was published for consultation in October 2022.

## Main Modifications

5. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any main modifications necessary to rectify matters that make the Plan unsound and /or not legally compliant, and thus, incapable of being adopted. Our Report explains why the recommended main modifications are necessary. They are referenced in bold in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
6. Following the examination hearings, the Council prepared a schedule of the proposed main modifications and, where necessary, carried out a Sustainability Appraisal ('SA') and a Habitats Regulations Assessment ('HRA') of them. The schedule was subject to public consultation for six weeks. We have taken account of the consultation responses in coming to our conclusions in this Report and have made some amendments to the detailed wording of the main modifications where necessary. None of the amendments undermines the participatory processes. Where necessary they are highlighted in the Report.

## **Policies Map**

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Dover District Local Plan to 2040 – Policies Map.
8. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, several of the published main modifications to the Plan's policies require further corresponding changes to the policies map. For example, the deletion of site STM010 (land between Salisbury Road and The Droveaway). There are also instances where the geographic illustration of policies on the submission policies map is not justified, and where changes are needed to correct errors and/or ensure that policies are effective. They include the boundaries for Policy SAP3 (Dover Waterfront), Policy SAP12 (Car park rear of Charlton Shopping Centre), Policy SAP13 (Albany Place Car Park), Policy SAP17 (Land south of Stonar Lake and to the north and east of Stonar Gardens), Policy SAP52 (Prima Windows, Nonington) and Policy E2 (White Cliffs and Deal Business Parks).
9. When the Plan is adopted, to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Examination Document ED51.

## **Context of the Plan**

10. The submitted Plan covers the period up to 2040. It replaces all the remaining saved policies from the 2002 Dover Local Plan, in addition to the existing policies in the 2010 Core Strategy and the 2015 Land Allocations Local Plan.
11. Dover District is located on the east coast of Kent, at the narrowest point of the English Channel. It is predominantly a rural district, with two main coastal towns at Dover and Deal and two rural service centres at Sandwich and Aylesham. The latter is a garden community designed by Sir Patrick Abercrombie during the 1920s. Road and rail connections provide access from the wider south-east, London and the rest of the United Kingdom to the Port of Dover.
12. Parts of the district continue to have deprivation 'hot spots' which include some of the most deprived areas in the country. Beyond the urban areas the district is characterised by rolling chalk downs, expansive arable farmland, and the coastal chalk cliffs. Large parts of the district area are covered by national and international designations, including the Kent Downs Area of Outstanding

Natural Beauty ('AONB'), two Heritage Coasts, two Marine Conservation Zones and the Thanet and Sandwich Bay Special Protection Area ('SPA') and Ramsar site. Notable historic assets contribute to the historic significance of Dover, including Dover Castle, which overlooks the town and was established by William the Conqueror in the 11<sup>th</sup> century.

## Public Sector Equality Duty

13. In examining the Plan, we have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included our consideration of several matters including the provision of accommodation to meet the needs of gypsies and travellers and travelling showpeople, the needs of older people and those with disabilities. These matters are discussed in more detail under our assessment of soundness that follows.

## Assessment of Duty to Co-operate

14. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council has complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
15. The Duty to Cooperate Statement Update<sup>1</sup> sets out details of all the strategic cross-boundary matters and how the Council has engaged with relevant bodies to maximise the effectiveness of the Plan. An example includes the allocation at Aylesham for approximately 640 houses (Policy SAP24). The site is on the edge of Dover District and evidence has been provided to show how the Council engaged with Canterbury City Council on relevant cross-boundary matters<sup>2</sup>.
16. Other instances of effective, ongoing engagement include dialogue with the Dover Harbour Board as evidenced through a Statement of Common Ground<sup>3</sup>. Although the parties did not agree on how the Plan should account for a possible future Inland Terminal Facility, the dialogue led to a suggested way forward which demonstrates positive, ongoing engagement on a key strategic issue. This is consistent with the aims and objectives of the Duty. Further examples include the ongoing engagement with National Highways and Kent County Council ('KCC') on highways matters, which has resulted in an updated Statement of Common Ground in Submission Document GEB06.

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<sup>1</sup> Submission Document GEB01

<sup>2</sup> Submission Document GEB03

<sup>3</sup> Examination Document ED9

17. We therefore conclude that the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has been met.

## **Assessment of Other Aspects of Legal Compliance**

### **Sustainability Appraisal**

18. The SA of the submitted Plan tested three growth options for Dover District. It included a minimum growth option (based on the net number of houses required under the standard methodology), a medium growth option (which included all suitable and potentially suitable employment sites) and a high growth option (which included all suitable and potentially suitable housing and employment sites). The Council therefore tested a reasonable range of alternative growth strategies. It was not necessary to include a scenario based on every available site as the Council had reasonably sifted out options which were unsuitable and unlikely to be remedied by mitigation.
19. Different scenarios for the spatial distribution of development were tested through Options A-E. These included a population-based approach, a more even distribution of development and options which looked at focussing growth on Dover town. The submitted Plan represents a mix of all the options, with growth focussed on Dover town but recognising the importance of sustainable rural development. The evidence demonstrates how the SA informed the plan-making process and considered reasonable alternative spatial strategies.
20. In determining which sites progressed to the 'reasonable alternative' stage, the Housing and Economic Land Availability Assessment ('HELAA') was used. Only suitable and potentially suitable sites were taken forward to the SA. Conclusions on the suitability of sites are found in different places throughout the evidence depending on when they were assessed. For example, Examination Document ED33(a-b) considered sites at the Regulation 18 stage. Further assessments are contained in Submission Documents GEB09(a-g) produced to support the Regulation 19 version Local Plan.
21. The process required professional planning judgement and often involved subjective matters such as likely impacts on landscape. Once through to the reasonable alternatives stage, the SA also required high-level conclusions on likely significant effects as part of the wider plan-making process. It was not an exercise which determined which sites would be allocated or which sites were 'the best'. Overall, the Council's judgements were reasonable and sound.
22. Following submission of the Plan, the Council identified that the SA did not include a Non-technical Summary. The SA also relied on conclusions from the HRA which required updating following advice from Natural England. Additional



consultation on an SA Addendum has therefore been carried out to address these matters and we have taken the representations into account.

23. In summary, the various iterations of the SA demonstrate that the Council has identified, described, and evaluated the likely significant effects on the environment of implementing the Plan and considered reasonable alternatives taking into account its objectives and geographical scope. Whilst the conclusions and relationship to other parts of the evidence-base could have been clearer, the Council has nonetheless carried out an adequate SA of the Plan and reasonable alternatives have been considered to a sufficient degree.

## **Habitats Regulations Assessment**

24. The HRA identifies a range of European sites within and surrounding Dover. They include The Thanet Coast and Sandwich Bay SPA and Ramsar site, which is shown on Figure 11.1 under Policy NE3. Other notable sites include Special Areas of Conservation ('SACs') at Sandwich Bay, The Thanet Coast, Lydden and Temple Ewell Downs and the Dover to Kingsdown Cliffs. The Stodmarsh SPA, SAC and Ramsar site lies just outside the district to the north-west.
25. The potential for likely significant effects on the integrity of the European sites has been identified through the HRA, which has been updated during the plan-making and examination stages. Likely significant effects are identified from a loss of functionally linked habitat, recreational disturbance and pollution.

### *Loss of Habitat*

26. The Thanet Coast and Sandwich Bay SPA and Ramsar site supports qualifying bird species such as Golden Plover, Turnstone and Little Tern which rely on functional off-site habitat. The Stodmarsh SPA and Ramsar relies on off-site habitat for species such as the Gadwall, Great Bittern and Hen Harrier. New development within Dover therefore has the potential for likely significant effects, depending on its location.
27. Following comments received from Natural England, the HRA was updated upon submission in March 2023. A signed Statement of Common Ground with Natural England has also been provided<sup>4</sup>. In summary, where the Thanet Coast and Sandwich Bay SPA and Ramsar site is concerned, the buffer zone to consider offsite functionally linked land was reduced from a 15km radius of the SPA to a 5km radius. This is because the previous distance was considered too precautionary and unnecessary. The change is justified and results in fewer sites identified as having moderate or high potential to support Golden Plover.

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<sup>4</sup> Submission Document SD09 and Examination Document ED8

28. Four sites are identified in the updated HRA as having moderate suitability for qualifying bird species and one site as having high suitability. Although the sites provide habitat suitable for Golden Plover, their features (arable fields and short grazed pasture) are widespread across Dover District. Moreover, the sites were not found to contain features of notable value or rarity which the bird species are likely to be dependent upon. The site of high suitability now also has planning permission for residential development. Subject to appropriate safeguards and mitigation, the HRA concludes that there will be no adverse effect on the integrity of the SPA and Ramsar site. A similar conclusion is reached in relation to the Stodmarsh SPA and Ramsar site.

### *Recreational Disturbance*

29. Studies in 2020 showed that approximately 90% of visitors to the Thanet Coast and Sandwich Bay SPA and Ramsar site originated from within Dover District. An increase in development could therefore give rise to an increase in recreational disturbance.
30. However, the Thanet Coast and Sandwich Bay Strategic Access Mitigation and Monitoring Strategy ('SAMM') has been established for the SPA. Measures include an Officer to engage with visitors, the provision of signage and education, and updated surveys of visitors and birds. The methodology has been recognised by Natural England and is intended to provide appropriate mitigation. Requiring new development to contribute towards the ongoing operation of the strategy is a requirement of the Plan through Policies SP13 and NE3. Subject to ongoing contributions to the strategy, the HRA concludes that there will be no likely significant adverse effects on the protected sites. There is no similar strategy for the SAC because of the less frequent, and more specialist nature of recreational activities likely to cause impacts (such as sailing and SCUBA diving). A similar conclusion is therefore reached for the SAC without the need for a specific mitigation strategy.
31. The Lydden and Temple Ewell Downs SAC is located broadly in the centre of Dover District and is recognised for its species-rich chalk grassland. Surveys carried out in 2010 as part of the Whitfield Urban Expansion identified that around 75% of visitors to the SAC travelled from within a 4km radius and tended to follow regular routes and desire lines. Based on an updated survey in 2021, a precautionary 4km distance was therefore adopted for the HRA. The findings of the updated surveys have informed the HRA, which concludes that likely significant effects can be mitigated through the provision of Suitable Alternative Natural Greenspaces ('SANGs'). The provision of SANGs as an appropriate form of mitigation was agreed as part of the Whitfield Urban Expansion Supplementary Planning Document ('SPD') and the planning permission for Phase 1. In principle, the use of SANGs is therefore already established and seek to provide alternative open spaces to deflect visitors from using the SAC.

32. One of the concerns with the submitted Plan is that the Council envisages multiple developers bringing forward parcels concurrently at Whitfield as shown in the latest trajectory<sup>5</sup>. It is claimed that this differs from the existing SPD and planning permission for Phase 1. Both were based on a phasing plan which aimed to start development at the furthest location from the SAC, thereby minimising risk and allowing the effectiveness of the SANG to be monitored and tested as development progressed. This was agreed with Natural England.
33. However, the submitted Plan ensures that the same objectives are met. Policy SAP1(l) states that SANGs must be provided, and critically, *“Provision must be phased alongside the phasing of housing delivery, and designed to provide a similar visitor experience to the designated sites, in terms of habitats, views and openness, as far as possible”*. Policy SAP1 (as modified) also requires a masterplan, alongside an updated phasing and delivery strategy, produced in conjunction with the Council and key stakeholders. It goes on to state that planning applications will be assessed against the phasing and delivery strategy and will not prejudice implementation of the site as a whole. The Plan therefore contains a clear and adequate policy requirement to ensure that 1) SANGs are provided and that 2) housing is phased in accordance with an agreed plan. Natural England agrees that the Plan will ensure an effective SANG strategy and supports the conclusions of the HRA. The HRA is justified in its conclusion that subject to the provision of SANGs, which are strictly controlled by Policy SAP1, there will be no adverse effects on the integrity of the Lydden and Temple Ewell Downs SAC.
34. It has also been suggested that if Whitfield Phase 1 fails, then the remainder of the site would be unable to come forward because of how the SANGs have been designed and the need for monitoring. However, this is a soundness issue relating to the effectiveness of the Plan and the ability of Whitfield to deliver the scale of housing envisaged, which is addressed elsewhere in this Report. If additional housing was precluded from coming forward, there would be no additional recreational pressure from development at Whitfield.
35. Similar threats, from walking and dog walking, are identified for the Dover to Kingsdown Cliffs SAC, which is located along the coastline. Most of the site is owned and managed by the National Trust. Existing management practices are therefore already in place to protect, enhance and manage the calcareous grassland, including concentrating visitors to certain coastal paths. Likewise, the Stodmarsh SPA and Ramsar site is owned by Natural England which also has active management practices in place. For these reasons, the HRA concludes that there would be no significant adverse impacts.

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<sup>5</sup> Examination Document ED44

## *Pollution*

36. The Sandwich Bay SAC and The Thanet Coast and Sandwich Bay SPA and Ramsar site support coastal habitats and species. Changes in hydrological conditions can directly affect species connected to the water environment, including foraging habitat for wetland bird species. Mitigation is proposed in the Plan through Policy NE5. It requires major proposals to demonstrate that there are, or will be, adequate water supply and wastewater treatment facilities in place to serve the whole development or relevant phase. Policy CC4 also requires higher water efficiency standards in new development. Subject to these measures, the HRA concludes that no adverse effects will occur.
37. Following submission of the Plan, further work has been carried out in respect of air quality to consider the impacts of ammonia, both alone and in-combination with other plans and projects. In summary, the HRA concludes that air pollution will not result in an adverse effect on European sites from development. Natural England agrees with this position.
38. We therefore conclude that, subject to the identified mitigation measures, which the Plan provides for, the policies and allocations in the Plan will not have a significant adverse impact on the integrity of relevant European sites.

## **Climate Change**

39. Policy SP1 sets out the overarching strategic aim for all new development to contribute towards the mitigation of, and adaptation to, climate change. The Plan then includes various policies through CC1 to CC8 which set out specific requirements from reducing carbon emissions, managing water and flood risk to sustainable design and construction. The spatial strategy has also been informed by the SA and seeks to strike a balance between directing all new development to the main urban areas and supporting sustainable rural growth.
40. The soundness of these policies is considered below. However, for the purposes of this assessment, we are satisfied that, taken as a whole, the Plan includes policies designed to secure that the development and use of land in the area contributes towards the mitigation of, and adaptation to, climate change.

## **Other Legal Matters**

41. Consultation on the Regulation 18 version Local Plan took place when national Coronavirus restrictions were still in place. No face-to-face events were possible. Instead, the Plan and supporting evidence were available online. There were also opportunities for people without internet access to engage in the process, including through the printing and posting of hard copies.

42. As part of the Plan's preparation, updates to the settlement hierarchy baseline data were required. Because of the Coronavirus restrictions, and the fact that several businesses were only temporarily closed, the Council liaised with Parish Councils to establish what services were available to residents at the time. Data was also cross-checked with the Local Land Property Gazetteer. Although not all the Parish Councils responded, this was an appropriate way of checking local services given the restrictions in place at the time. Furthermore, it did not replace the formal public consultation that was subsequently carried out.
43. Consultation on the Regulation 19 Plan took place over seven weeks starting in October 2022. By this stage, Coronavirus restrictions had been lifted. Electronic copies of the Plan and all supporting documents were again provided online, but with paper copies available. Exhibitions were also held across the district as set out Submission Document SD05c. Consultation was carried out in accordance with the Council's Statement of Community Involvement and we are satisfied that people could engage in the process and submit comments.
44. The Kent Downs AONB is now known as the Kent Downs National Landscape. Relevant authorities have a statutory duty under the Countryside and Rights of Way Act (as amended by the Levelling-up and Regeneration Act 2023) to seek to further the purpose of conserving and enhancing the natural beauty of the area. To bring the Plan up to date on adoption and make it effective, **MM168** and **MM169** refer to the change in description and statutory duty. However, **MM168** also clarifies that for the purpose of the Local Plan, the Kent Downs AONB name is still used. This is to avoid any confusion as the change was made after submission. National planning policy also still refers to AONBs.
45. As submitted, the Plan does not state whether its policies are intended to supersede another policy in the adopted development plan, as required by The Town and Country Planning (Local Planning) (England) Regulations 2012 Regulation 8(5). This is rectified by **MM182**.
46. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area. The Plan has also been prepared in accordance with the Council's Local Development Scheme which identifies submission in 2023 and adoption of the Plan in 2024.

## Conclusion

47. Subject to the recommended main modifications, we conclude that the Plan complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Assessment of Soundness

### Main Issues

48. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified 10 main issues upon which the soundness of the Plan depends. This Report deals with the main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy or allocation in the Plan.

### **Issue 1 – Whether the Plan is informed by a robust, objective assessment of housing need and whether the housing requirement is justified and positively prepared to meet that need**

49. To determine the minimum number of homes needed, paragraph 61 of the Framework states that strategic policies should be informed by a local housing need assessment using the standard method in the Planning Practice Guidance (the 'PPG'), unless exceptional circumstances justify an alternative approach.

50. At the time of submission in 2022, the local housing need assessment identified a need for **611** net new dwellings per year. Applied across the remainder of the Plan period to 2040 equates to **10,998** new homes. This is set out in Policy SP3 and the relevant supporting text. Using the latest affordability ratio results in a very marginal reduction to 609 dwellings per year. However, the change is not meaningful enough to require any modifications to the submitted Plan.

51. The PPG advises that the standard method provides a minimum starting point in determining the number of new homes needed in an area. Because it does not attempt to predict changing economic circumstances or demographic behaviour, there may be circumstances where actual housing need is higher. Examples include growth strategies or strategic infrastructure improvements that are likely to drive an increase in homes locally<sup>6</sup>.

52. In contrast to the labour demand projections (around 49,000 square metres), the Plan seeks to deliver significantly more employment land based on past take-up (around 117,000 square metres). Although this could lead to a greater number of jobs being created (and thus, people needed to fill them), it does not correlate to a need for more housing. This is because unemployment rates in the district remain higher than regional averages, with some wards in Dover seeing rates of almost 8%. Past events also include the loss of almost 2,400 jobs at Pfizer in Sandwich. By planning for positive economic growth, the Plan therefore seeks to return the district to previous levels of employment as seen in the early 2000s. When also considering that the Plan will be reviewed after five

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<sup>6</sup> Paragraph: 010 Reference ID: 2a-010-20201216

years, at which point there will be a greater understanding around proposals for key sites such as the White Cliffs Business Park, there is no justification for an economic-led housing uplift at this stage.

## **Conclusion**

53. We therefore conclude that the Plan is informed by a robust, objective assessment of housing need and that the housing requirement in Policy SP3 is justified and positively prepared to meet that need.

## **Issue 2 – Whether the settlement hierarchy and distribution of development is justified, positively prepared and consistent with national planning policy**

### **Settlement Hierarchy**

54. Dover is the district's principal town. It is the largest settlement by population (around 40%) and is an international port for both freight and passenger traffic. Identifying Dover as a Regional Centre is therefore appropriate and justified. No assessment of existing services is needed to reach this conclusion given the clear role and function that the town plays in the Settlement Hierarchy.
55. Deal is the second largest town in the district. Combined with the parishes of Walmer and Sholden, Deal has a population of over 20,000 people (or around 26% of the total population). In comparison, Sandwich is a smaller market town with a medieval street pattern and historic port. The population of the town is around 6,600 and it serves the day-to-day needs of its residents and surrounding rural area. Differentiating between Deal (a District Centre) and Sandwich (a Rural Service Centre) is also justified and sound.
56. In the existing Dover Core Strategy, Aylesham is a 'proposed' Rural Service Centre. It was also categorised in the same way in the 2002 Dover Local Plan. Since the last Local Plan, the town has seen significant growth and has evolved to have a range of shops, services, and facilities. It also benefits from a train station. Categorising Aylesham as a Rural Service Centre now adequately reflects its role and function.
57. Below the Rural Service Centres are Local Centres, Larger Villages and Smaller Villages and Hamlets. The terminology used in the Plan is different to the Core Strategy, which has caused some confusion. However, when the Plan is read as a whole, it is clear that Local Centres perform a role in supporting wider rural communities, whereas Larger Villages sit below them and typically have more limited services for local residents.

58. Submission Document HEB03 summarises the Council's process of categorising settlements. Because of Coronavirus restrictions in place at the time, Officers used the 2019 survey as a baseline and cross-checked this with Parish Councils and the Local Land Property Gazetteer. The Council used a points-based system with higher scores attributed for services such as schools and a local convenience shop.
59. Where services were only available for reduced hours, such as part-time Post Offices, or where schools offer only specialist education provision, these factors were recorded. Likewise, where a village has services which are accessible to residents in a settlement nearby, this is also reflected in the scoring. For example, Eythorne Primary School is within walking distance of Elvington.
60. Using a points-based system to categorise settlements is appropriate and represents a transparent analysis of which villages have a greater level of service provision across the district. The methodology used by the Council was also reasonable given the restrictions in place at the time and the need to continue plan-preparation. It is also important to note that the purpose of the Council's scoring system was to establish an overarching settlement hierarchy. It was not intended to identify environmental or land use planning constraints. Nor was the hierarchy used to set a pre-determined level of growth for each village. Other factors, such as site suitability were fundamental to this process. A certain position in the hierarchy is not directly comparable to a pre-determined amount of new housing.
61. The scoring system inevitably represents a snapshot in time. Services in villages can come and go. Most notably bus services have been reduced in some locations since the surveys were completed. However, this would be the case even if the surveys were carried out again.
62. Having checked the scoring process some errors have been highlighted for Eythorne and Elvington. These are corrected in Examination Document ED36. Although scores have changed, the outcome is not material and no changes to the hierarchy are needed. The proximity of the villages to one another and the ability to share services (such as the local primary school) is the reason for the scoring in the Council's assessment. It is a reasonable approach to take and reflects the fact that residents in one village can access services in another.
63. Further to the main modification consultation, the Council has also identified an error in the categorisation of Ripple. Submission Document HEB03 incorrectly scored annual events in the village, rather than day to day facilities which it had done elsewhere. Correcting this factual error means that Ripple should have been identified as a Smaller Village, rather than a Larger Village. The Council's position in Examination Documents ED54 and ED55 is that this error should be rectified.



64. To ensure that the Plan is justified and effective, we have therefore changed the position of Ripple in the schedule of main modifications in the Appendix to this Report. The relevant changes are included in **MM6** and **MM10**. Correcting this factual error is necessary for soundness. It does not undermine the participatory process or the Plan's spatial strategy.
65. A further soundness issue with the settlement hierarchy is its location in Appendix E, rather than in the main body of the Plan. Because policies such as SP4 require a consideration of a settlement's character, role and function, the hierarchy needs to be clear to users of the Plan. This is rectified by **MM6**, **MM23** and **MM179**, which are necessary for effectiveness.

### **Distribution of Housing Development – Policy SP3**

66. The existing Core Strategy directed most new development to Dover (including Whitfield), with a target of 70% of all growth over the plan period. But this has not materialised. Instead, the Council's evidence<sup>7</sup> shows that only around 35% of growth between 2006 and 2022 occurred in Dover, with nearly 27% in Deal. The main reasons for this have been the slower than expected delivery at the Whitfield Urban Expansion and the difficulties in bringing forward brownfield sites in Dover town where viability is challenging.
67. What the submission version Local Plan therefore seeks to achieve is a lower target of around 50% of all new housing in Dover (including Whitfield), with approximately 10% each at Deal, Sandwich and Aylesham. The remainder is directed to the rural villages and hamlets. In doing so, the strategy aims to provide significant new development in places which are, or can be made sustainable, but recognises the delivery challenges which persist in Dover and the environmental constraints highlighted in the site selection process. It also seeks to promote development across villages where new housing will support the vitality of rural communities. The result is a pragmatic, justified and appropriate strategy for Dover District.
68. Deal is a District Centre and sits above Sandwich and Aylesham in the settlement hierarchy. Despite this, all three settlements receive broadly the same amount of housing growth (around 10%). This is because the distribution of development has been informed by the SA, the settlement hierarchy, and the site selection process. As part of the Plan's preparation the Council looked at options for significant growth around Deal but concluded that the site options available were unsuitable. As such, there is no direct correlation between the size of a settlement and the number of allocations it receives. Furthermore, Deal has seen significant growth from development under the existing Core Strategy – around 27% between 2006 and 2022. When considering the aspiration to promote sustainable growth in the villages, and the need for Dover

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<sup>7</sup> Figure 2, Submission Document HEB02

and Whitfield to remain a priority for the Plan, the 10% figure attributed to Deal is reasonable, proportionate, and justified. From new allocations and existing commitments over 1,000 houses will still be delivered in Deal during the plan period, in addition to any windfall sites that come forward.

69. For the same reasons of environmental constraints and site availability, it was not possible to attribute a set amount of growth to each village category. Nonetheless, Submission Document HEB02 shows that, overall, the amount of growth proposed in Local Centres is greater than Larger Villages. Thereafter, the Smaller Villages only see a limited amount of new housing from allocations, which reflects their size, role and function.
70. Notable exceptions are Ash, Eastry and Eythorne and Elvington. But there are valid reasons for the scale of development proposed in each location. At Ash, sites are allocated by the made Neighbourhood Plan and already form part of the development plan for the area. Similarly, existing planning permissions make up most of the committed supply at Eastry. Eythorne and Elvington are two separate villages, but residents in one village can walk to the other. The local primary school also serves both. Because of their proximity and shared services, the Council was justified in identifying each village as a Local Service Centre. Considering the population of Eythorne Parish, and the good range of services and facilities on offer across the two settlements, the scale of new housing proposed is appropriate.
71. As submitted, the Plan states that the growth at Eythorne and Elvington will strengthen their role as a Local Centre. This is an error and is misleading to users of the Plan. The villages remain separate for the purposes of the settlement hierarchy, just benefit from their proximity and shared services. It is rectified by **MM81**, which is necessary for effectiveness.
72. In summary, the strategy results in a 50/10/10/10 split between Dover, Deal, Sandwich and Aylesham – which are the largest settlements and the most sustainable locations for new development. The remaining 20% of housing growth is directed to rural settlements. The approach is justified, has been informed by the evidence and is an appropriate strategy for Dover District having considered the reasonable alternatives.

## Conclusion

73. Subject to the recommended main modifications, we conclude that the settlement hierarchy and distribution of development is justified, positively prepared and consistent with national planning policy.

### **Issue 3 – Whether the Plan will be effective in achieving the proposed spatial strategy and whether its policies will be effective for decision-making purposes**

#### **Settlement Boundaries and Development within Settlement Boundaries**

74. Towns and villages listed in the settlement hierarchy all have a boundary shown on the policies map. The use of settlement boundaries is long established in Dover and is a justified and appropriate way of promoting sustainable patterns of development. It also provides clarity to users of the Plan by demonstrating where development is acceptable in principle.
75. The boundaries were reviewed as part of the Plan's preparation as set out in Submission Document HEB03<sup>8</sup>. It describes the methodology and how the Council sought to define boundaries using built development and/or clearly defined, physical features such as roads or rivers. Boundaries were not considered appropriate at Elmstone, West Langdon and West Stourmouth as they failed to meet the criteria in Document HEB03.
76. One of the criteria was whether a property is physically linked to the main, built-up part of a settlement. Boundaries were not extended to include houses where properties are separated from a village by areas of open land. In some instances, this required professional planning judgement by Officers. However, we are satisfied that the Council's judgements, and the conclusions reached on these issues, are justified and sound.
77. East Langdon is defined as a Larger Village with two settlement boundaries. This is justified because it reflects the built form of the village, which has two main areas of built development, one around the primary school to the north and one around the village green to the south. The southern area excludes some of the surrounding farm buildings because they conflict with the methodology used. Submission Document HEB03 clearly states that "*All properties physically linked to the main (built) part of the settlement should be included within settlement confines, except those operating as farms as they principally relate to activities within the countryside.*" The boundary for the village is therefore justified. Whilst we note the content of Appeal decision APP/X2220/W/23/3314961, that concerned an application for planning permission. The situation was materially different to the one before us, which is concerned with soundness. There is nothing in the appeal decision which leads us to a different conclusion.
78. Within settlement boundaries, Policy SP4 supports new residential development of a scale commensurate with the town or village, subject to meeting criteria a) to k). In the Smaller Villages and Hamlets, new residential development is

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<sup>8</sup> Rural Settlement Hierarchy Incorporating the Settlement Confines Review, August 2022

limited to 'minor' proposals (defined as less than 10 dwellings). The distinction is appropriate and reflects the fact that lower tier settlements are typically smaller with fewer services and facilities. In doing so, the policy reflects the spatial strategy by allowing new housing in the rural areas, whilst seeking to recognise the character of the countryside and direct significant new development to places which are, or can be made, sustainable.

#### **Development beyond Settlement Boundaries – Policy SP4**

79. Policy SP4 also allows new residential development on sites adjoining the built-up areas of Dover, Deal, the Rural Service Centres, Local Centres and Larger Villages. By allowing some new housing on the edges of towns and villages, the Plan is positively prepared in seeking to ensure that a sufficient supply is maintained if larger sites fail to come forward. This issue occurred during the last plan period and the Council is justified in seeking to include a policy mechanism to allow appropriate windfall development in the right places. By only permitting such schemes in Larger Villages and above, the Plan ensures that new homes will be served by adequate supporting infrastructure and will be accessible.
80. Having a permissive windfall policy *could* undermine the purpose of having a Local Plan. However, Policy SP4 is subject to several detailed criteria which are specifically aimed at ensuring that new housing on windfall sites is appropriate and does not undermine wider plan objectives. In principle, we agree with the Council that it strikes a balance between allowing housing to come forward without undermining key spatial objectives or leading to unsustainable development.
81. The starting point for windfall proposals is that housing sites must be "immediately adjoining" the settlement boundary. Although well-intentioned, this could lead to arbitrary site boundaries and situations where perfectly acceptable schemes are discounted because of minor mapping issues, rather than focussing on the main issues such as good design or landscape character. **MM9** and **MM10** are therefore necessary for effectiveness. They delete the word "immediately" and add further supporting text to explain that proposals adjacent to boundaries will be acceptable in principle where they relate to the existing built form of the settlement. For the same reasons, it is necessary to modify criterion a) by stipulating that proposals must be of a scale which is not only appropriate to the size of a settlement, but also its role and function and the range of services it provides (**MM10**).
82. Dover is the main town in the district and a windfall proposal adjacent to Dover could be significant in size and scale and still meet the requirements in Policy SP4. This is not the Council's intention, and we note that large windfall proposals could undermine the deliverability of allocated sites and some of the regeneration objectives for the town. **MM10** therefore introduces a requirement

that proposals must integrate with the layout, density and fabric of the settlement and be subordinate to the community it adjoins. Although this introduces a subjective policy test, it provides an effective mechanism to avoid significant unplanned extensions to settlements, contrary to the spatial strategy. The modification is necessary to make Policy SP4 justified and effective.

83. The remaining criteria are all appropriate and justified in seeking to ensure that proposals conserve and enhance landscape character, including the scenic beauty of the Kent Downs AONB, consider heritage assets, highways matters and avoid the significant loss of best and most versatile agricultural land. Where impacts on landscape are concerned, **MM10** is needed to make it clear that harmful intrusions into the open countryside should be avoided. The policy also needs to ensure that proposals are compatible with neighbouring buildings and land uses in accordance with Policy PM2 and consider cumulative highways impacts. These changes are required for effectiveness and to make the Plan justified. Consequential changes are needed to the supporting text and made by **MM9**.
84. Subject to the changes discussed above, we are satisfied that Policy SP4 will provide an appropriate policy framework for windfall housing sites. Should the policy not work in the manner envisaged by the Council, then the review process will enable any updates to be made as required. There is no need for any early-review mechanism in Policy SP4. However, for effectiveness, the Plan should recognise that if circumstances change (for example, because of new development), then future boundary changes may be required through Local Plan updates for the policy to remain effective (**MM9**).

### Development in the Countryside

85. Sites outside the scope of parts 1 and 2 of Policy SP4 are defined as 'countryside'. When Policy SP4 is read as a whole, this is sufficiently clear. For new residential development in the countryside, Policy SP4(3) applies. The policy is broadly consistent with paragraph 80 of the Framework and is justified, although for effectiveness, **MM9** is needed to clarify that proposals do not have to accord with the PPG, which is guidance.
86. One difference between the Framework and Policy SP4(3) is that the criteria in the Local Plan relate to all new housing, whereas paragraph 80 specifically refers to avoiding the development of "isolated" homes in the countryside. However, the Council has assessed all the Smaller Villages and Hamlets in the district, and where the criterion for designation is met, they have been defined as settlements. Small clusters of houses beyond the settlement boundaries therefore fall under the countryside definition where the spatial strategy seeks to restrict new market housing. Policy SP4 then makes it clear that whilst a site may be near other buildings or houses, when divorced from a defined

settlement, the countryside policies apply. This approach is justified and sound in seeking to promote sustainable patterns of development.

## **Conclusion**

87. Subject to the recommended main modifications, we conclude that the Plan will be effective in achieving the proposed spatial strategy and the relevant policies will be effective for decision-making purposes.

## **Issue 4 – Whether the process for selecting residential site allocations was robust and whether they are justified, effective and consistent with national planning policy**

### **Methodology**

88. The process of identifying land for development started in 2017 through a call for sites exercise. Other potential sources of supply included looking at Council-owned land, sites on the brownfield register, unimplemented planning permissions and existing allocations.
89. An initial sift was carried out where sites were discounted based on their size, with a minimum capacity of 5 dwellings required. Sites were also discounted if they were in SPAs or SACs, already under construction, contrary to policies in the Framework or where sites were 'isolated' in the countryside, defined as having no relationship to a settlement. The remaining sites were taken forward to a "suitability assessment".
90. The suitability assessment considered factors including landscape character, important views, heritage assets, highways matters and environmental constraints. At this stage advice was sought from KCC highways, the Kent Downs AONB Unit, external landscape consultants and the Council's Principal Heritage Officer. It led to a rating of either 'suitable', 'potentially suitable' or 'unsuitable'. A red/amber/green scoring was also used.
91. The process of identifying sites for development inevitably involves some planning judgement. For example, some land parcels between Ash and the A257 were discounted even though their landscape sensitivity was rated low. This is because the Council concluded that development would urbanise the northern part of Ash which is characterised by open countryside and acts as a buffer between the village and the bypass. These judgements are reasonable. Other sites around Dover were also discounted at this stage (and thus, not subject to SA) because of their impact on the setting of the Kent Downs AONB

and local character. Again, these were subjective, yet reasonable conclusions to reach. The findings were published in the HELAA at Regulation 18 stage<sup>9</sup>.

92. A targeted call for sites was carried out in 2021 and sites put forward in response to the Regulation 18 Plan were also considered through updates to the HELAA, which is an iterative process. The 2022 HELAA was produced with the benefit of further information on viability. It then formed part of the evidence base, alongside the SA and Settlement Hierarchy review, to inform judgments on which sites to allocate.
93. Overall, the Council's approach was thorough and robust, and considered alternative options where mitigation could avoid harmful impacts, such as making land parcels smaller. Given the scale of the task facing the Council, it was not necessary to continually review unsuitable sites until an acceptable outcome could be found.
94. In some cases, the summaries and terminology used by the Council has led to confusion and a misunderstanding of the process. For example, in Chillenden, land off Short Street has been allocated whereas land adjacent to The Glebe has not, even though they occupy similar positions relative to the village. This is because the Council's methodology discounted sites that did not have a direct relationship with settlement boundaries. Land off Short Street is adjacent to the settlement boundary for Chillenden (as reviewed in Submission Document HEB03), whereas land at The Glebe is not. Other sites were assessed and/or discounted on the same basis. Although the Council's summaries could have been more descriptive, the methodology used was reasonable and the process followed was applied in a consistent manner.
95. Some sites have been allocated despite being previously rejected by the Council in the last Local Plan process. One example includes land at Liverpool Road, Walmer (Policy SAP15). However, the Land Allocations Local Plan was prepared in a materially different context, with different housing needs and with different evidence. As a result, the fact that an allocation did not make it into a previous development plan document does not automatically make it unsuitable for consideration in this Local Plan.
96. Where flooding is concerned, the Level 2 Strategic Flood Risk Assessment ('SFRA') and the Sequential and Exception Test Summary and Review Note<sup>10</sup> identify 13 sites proposed for housing which are in Flood Zones 2 and/or 3/3b. However, the evidence demonstrates how the Council has applied a sequential, risk-based approach to the selection of allocations in the Plan. In some cases, only part of the allocation is at risk of flooding. This includes SAP12, SAP17, SAP19, SAP22 and SAP49. Because of the size of the sites, the capacity

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<sup>9</sup> Examination Documents ED33, ED33A and ED33B

<sup>10</sup> Submission Documents CCEB01c and CCEB02

determined by the Council and the land available, subject to a flood risk assessment ('FRA') to inform the design and layout at the planning application stage, proposals should be able to avoid vulnerable development taking place in areas at any risk. In other cases, sites either benefit from planning permission, and/or, they are already allocated for housing in the existing development plan for the area (sites SAP3, SAP6, SAP7 and SAP10).

97. Some 'new' sites are proposed for allocation in and around Deal and Sandwich which fall within Flood Zone 3. They include land at Ethelbert Road Garages (TC4S032), 104 Northwall Road (TC4S047), Land south of Stonar Lake (SAP17), the Sandwich Highway Depot (SAP18) and Woods' Yard (SAP20). In response to the Regulation 19 consultation, the Environment Agency requested that the Council considers whether these sites pass the sequential test.
98. In preparing the Plan, the Council undertook a sequential approach to site selection. At the outset it was identified that an effective plan, which sought to meet the housing needs of the area, could not be achieved with only 'suitable' sites in Flood Zone 1. A sequential test was therefore applied which considered 'suitable' sites in Flood Zone 2, then 'suitable' sites in Flood Zone 3. Sites with the lowest risk of flooding were selected first.
99. We have already found that the Plan's strategy is justified in directing new development towards Deal and Sandwich. After Dover, these are the largest and most sustainable places in the district. The Council did look at other options in Deal and Sandwich and there are other sites available which are not at risk of flooding. However, paragraph 162 of the Framework states that development should not be allocated if there are reasonably available sites "*...appropriate for the proposed development...*" in areas at lower risk. As part of the site selection process the Council assessed other options and concluded that the other site options were not appropriate. Whilst there will inevitably be disagreements about the suitability of sites, the Council's process was robust, and the conclusions reached were reasonable. We are therefore satisfied that the Council applied a sequential, risk-based approach to their site selection. No objection to the Council's application of the sequential test has been raised by the Environment Agency, and based on the evidence before the examination, we find no reasons to disagree. Where application of the exception test is concerned, this is addressed below for each allocation where required.
100. In summary, we are satisfied that the Council considered a range of sites on a consistent and transparent basis by following an adequately clear and robust methodology. The process followed, and judgements made, were appropriate.



## General Policy Requirements

101. Residential allocations have an indicative dwelling capacity. The figures are not precise and reflect the strategic nature of the Plan. Final numbers will be for the planning application process to determine. For the strategic allocations, development proposals are expected to follow Garden Village Principles. To be effective, further guidance on what is expected is provided by **MM24**.
102. As submitted, the Plan includes a list of documents that will be expected to support planning applications. Whilst this may be helpful to some applicants, it is a matter for the Local Validation Checklist, not the Local Plan. The deletions are needed to make the Plan justified and are made by **MM25** and **MM180**.
103. Several allocations have generic policy requirements where a consideration of heritage assets is necessary. However, for effectiveness, the Plan needs to be clearer what is required. This is rectified by **MM29, MM31, MM33, MM38, MM39, MM40, MM48, MM49, MM51, MM52, MM55, MM56, MM57, MM65, MM66, MM67, MM69, MM70, MM74, MM75, MM77, MM82, MM83, MM87, MM88, MM89, MM90, MM92, MM93, MM98, MM105, MM109, MM110, MM112, MM113, MM114, MM115, MM119, MM121, and MM122**. Where relevant, the changes also specify relevant heritage assets and the need for proportionate supporting evidence, consistent with paragraph 194 of the Framework.
104. For the same reasons, the design and layout of sites in areas at risk of flooding (including from surface water) should be informed by FRAs where necessary (**MM59, MM60, MM106, MM110** and **MM114**). Similarly, for effectiveness it is necessary to clarify that where habitat surveys are required, these are carried out prior to the submission of planning applications rather than before determination. Relevant policies are modified by **MM29, MM35, MM37, MM44, MM46, MM55, MM64, MM65, MM74, MM75, MM77, MM82** and **MM92**.
105. Following agreement with Natural England, and as reported in the HRA and discussed above, the zone of influence for consideration of functionally linked land associated with The Thanet Coast and Sandwich Bay SPA has been reduced from 15km to 5km. For developments within this zone, a wintering bird survey is required to support planning applications. Beyond the 5km buffer zone, surveys are not necessary. In addition, the surveys are only required in respect of The Thanet Coast and Sandwich Bay SPA. To ensure that the Plan is justified, the relevant changes are made by **MM18, MM19, MM29, MM31, MM64, MM74, MM77, MM82, MM90, MM92, MM93, MM101, MM105, MM109, MM110, MM111, MM119** and **MM122**.
106. 'Dover Fastrack' is an electric rapid bus transit system that will connect Whitfield with Dover Town Centre and Dover Priory station. The route is currently under construction and is expected to open in 2024. Funding for Dover Fastrack has

been secured from different sources, including Homes England and the Department for Transport. However, additional funding will be required in the future from developments in Dover town which will benefit from the service, (including the Whitfield Urban Expansion and the White Cliffs Business Park) to extend the line and frequency of the service, and to improve links with other bus services. Making this clear to users of the Plan is needed for effectiveness and to ensure that the plan is justified by reflecting the need for future improvements to public transport infrastructure. The relevant policies are modified by **MM29, MM31, MM33, MM37, MM39, MM40, MM41, MM43, MM46** and **MM48**.

107. Policies SAP36 and SAP39 include a requirement to provide “pram crossings”. What the Council seeks to achieve are crossings with dropped kerbs and tactile paving, which would secure safe access for all highway users, including people with disabilities. The necessary changes are needed for effectiveness and are made by **MM92** and **MM98**. For the same reasons, it is also necessary to modify Policy SAP38 in the same way. We have therefore included the relevant changes in the schedule of main modifications appended to this Report (**MM97**).
108. For several of the allocations listed as “small housing sites”, bullet points are provided under the development requirements. This is a proportionate and justified response and other policies in the Plan will ensure that an appropriate form of development comes forward. Nonetheless, in some cases it is unclear that speed surveys are required to inform the necessary visibility splays and ensure that a safe and suitable access can be achieved. For effectiveness, the changes are made by **MM100, MM102, MM103, MM109** and **MM111**.
109. Finally, parts of the England Coast Path (South East National Trail) runs through the district close to allocated sites such as the Dover Western Heights and Dover Waterfront. As submitted, some policies refer to the need to improve pedestrian connectivity with the wider area but fail to reference the trail. Because the Council’s and KCC’s justified intentions are to promote connectivity in these areas, reference to the trail is needed for effectiveness by **MM33, MM35, MM40, MM49** and **MM64**.

## **Dover Housing Sites**

### *Whitfield Urban Expansion – Policy SAP1*

110. The Whitfield Urban Expansion is a longstanding policy aspiration for Dover. It was allocated in the 2010 Core Strategy for a mixed-use development including at least 5,750 new homes. The Whitfield Urban Expansion SPD was adopted by the Council in 2011 and provides further detail on how the allocation is expected to come forward. Progress has been made and allocating the site once more is justified and appropriate to ensure that the long-term vision and strategy for the area is realised.

111. As part of the call for sites process, an extension to the existing allocation was put forward. It results in a greater site area and increases the capacity from around 5,750 to approximately 6,350 new homes. In principle, the submitted site and larger indicative capacity is justified in this location. It reflects the spatial strategy for the district and will help deliver a new community close to Dover town benefitting from existing and proposed services and facilities. The strategic site is consistent with the Framework which seeks to direct significant new development to places which are, or can be made, sustainable.
112. As submitted, Policy SAP1 requires a revised SPD, incorporating the extended site area, to guide the future delivery of the site. The policy also requires the SPD to be prepared by "the landowner" and include, amongst other things, an updated phasing and delivery strategy for the allocation.
113. There are three soundness issues with the opening paragraphs of Policy SAP1 and the associated supporting text. Firstly, there is no justification for producing a revised SPD, a position which is now agreed by the Council in Examination Document ED22. The existing document took a significant amount of time and resources to produce and involved extensive public consultation. Although time has moved on and the boundary has changed, several of the principles remain relevant and planning applications have been prepared, submitted and approved based on its content. When also bearing in mind that only around 500 houses have been delivered since adoption of the Core Strategy in 2010, greater flexibility is needed to ensure that the plan for Whitfield is positively prepared and effective in delivering new housing. A more expedient and efficient way of responding to any changes in circumstances would be through a revised masterplan incorporating garden village principles. This is achieved by **MM29**, with consequential changes to the supporting text required by **MM28**. The changes ensure that the policy is justified and effective.
114. Secondly, given the scale of the Whitfield Urban Expansion, several developers are actively involved in delivering the site. For effectiveness, **MM29** is needed to delete reference to a single "landowner". The updated masterplan will be prepared by the main landowner and/or developers working jointly with the Council and key stakeholders.
115. Thirdly, Phase 1 of the allocation already has planning permission, and, in some places, development is now complete. It is therefore unnecessary and unjustified for the Plan to require the revised masterplan to include this area. **MM29** makes the necessary change by deleting reference to the "whole site". For effectiveness, **MM28** also provides further supporting text to clarify the situation and explain that ahead of a revised masterplan being agreed, the SPD remains relevant for decision-making. When read as a whole, the modified policy and supporting text is sufficiently clear.

116. The scale of development proposed at Whitfield will have an impact on the capacity of the surrounding road network. The Statement of Common Ground between Dover District Council, KCC and National Highways<sup>11</sup> sets out the agreed position upon submission of the Plan. For the Whitfield roundabout it states that some arms of the junction are already over capacity. Local Plan growth will make the situation worse and appropriate mitigation is required. The indicative cost of that mitigation is approximately £6.3m. The Duke of York roundabout is also identified as nearing capacity, with the necessary improvements costed at around £5.6m.
117. National Highways' latest position is set out in the October 2023 Technical Note<sup>12</sup>, which was discussed throughout the hearings. In summary, National Highways considers that 1,250 dwellings can come forward in advance of the Whitfield roundabout mitigation being in place. This reflects the position in the latest iteration of the Infrastructure Delivery Plan ('IDP'), dated July 2023. National Highways does not state that the roundabout has capacity for 1,250 dwellings, rather, it is the amount of development that it believes would be accepted before the improvements must be in place. The purpose is to allow some development to proceed, thus securing the necessary financial contributions. Based on this approach, which we consider is reasonable, pragmatic and justified, the improved Whitfield roundabout would need to open by 2029<sup>13</sup>.
118. Due to the lead-in time required, funding for the roundabout will have to be front-loaded. However, this position is agreed between the Council and Persimmon Homes in Examination Document ED22. Persimmon Homes is the main developer with a controlling interest in most of the site. The Statement of Common Ground between the parties confirms that the Whitfield Urban Expansion will fund the necessary roundabout improvements, and that the costs associated with doing so will not make Persimmon's interests unviable. No persuasive evidence has been produced to dispute this position.
119. We have considered whether the Plan needs to refer to 1,250-dwelling limit to be sound. However, both the Technical Note and the IDP recognise that the trigger point *could* change. This is because the transport modelling supporting the Plan is based on pre-Covid data, and, because Dover Fastrack could achieve a significant modal shift from cars to public transport. In addition, Policy SAP1 is a strategic policy which aims to provide a framework to guide an allocation of over 6,000 houses. It therefore needs to provide sufficient flexibility to be effective. The policy also requires the submission of Transport Assessments, mitigation measures and a phasing and delivery strategy already.

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<sup>11</sup> Submission Document GEB06, Dated March 2023

<sup>12</sup> Appendix 2 of Council's Matter 3, Issue 1 Hearing Statement

<sup>13</sup> Examination Document ED44

Sufficient safeguards therefore exist to manage housing delivery alongside the necessary highway improvements as part of the planning application process.

120. In 2015, outline planning permission was granted for a mixed-use development comprising 1,250 homes, a 66-bed care home, a new primary school and a local centre as part of Phase 1. This first phase is under construction. A condition of the outline planning permission is that no more than 801 houses can be occupied until a scheme of highway improvement works to the Whitfield roundabout have been agreed and practically completed.
121. The Council's current position is that the highway works previously envisaged for Phase 1 no longer represent an appropriate solution for the Whitfield Roundabout. It argues that the developers for Phase 1 should pay a proportionate contribution towards the latest (£6.3m) scheme instead, and, that this should be set out in the Plan.
122. However, Policy SAP1(u) requires the revised masterplan for Whitfield, and any development proposals, to be informed by a Transport Assessment and provide *"financial contributions to Whitfield Roundabout and Duke of York Roundabout in accordance with Policy SP12"*. Policy SP12 is then explicit in the need for strategic improvements to the Whitfield roundabout. It states that *"Proportionate developer contributions will be sought from new development to support these schemes."* As such, there are no soundness reasons to modify the Plan, which is already clear what is required.
123. The Plan already establishes the need for improvements to the Whitfield roundabout, makes this a requirement for development proposals under Policies SAP1 and SAP12, has tested the cost implications and demonstrated that they will not undermine the deliverability of the allocation. Given that the Plan is a strategic, high-level document, there is no need to include a specific amount of money that must be paid by each developer. The Plan is intended to cover the period up to 2040 and beyond. Circumstances will change and there needs to be sufficient flexibility to ensure that the strategy for Whitfield is effective. National Highways has also suggested that the trigger point for improvements could change, details around phasing and implementation are yet to be agreed and dwelling capacities will only be established at the planning application stage. The precise contribution per development parcel will therefore be more appropriately considered on a case-by-case basis, having regard to the latest IDP and masterplan at the relevant point in time. When read as a whole, the Plan is consistent with paragraph 34 of the Framework, which requires strategic policies to set out the contributions expected from development.
124. The Phase 1 developer's position is that the Plan should be modified to state that no contributions are required from Phase 1 towards the £6.3m roundabout

upgrades. Instead, it is suggested that contributions are made towards another solution, referred to as the “lines and signs” scheme.

125. Clearly the Council and developer for Phase 1 have reached an impasse over the precise level of contributions required towards the Whitfield roundabout. However, the Plan is not unsound by failing to conclude on this site-specific matter. As identified above, Policy SAP1 is intended to provide an overarching policy framework to guide the development of a large, strategic urban expansion of over 6,000 houses extending beyond the plan period. Subject to the main modifications discussed above it will provide sufficient clarity and flexibility to guide proposals coming forward for new development and deliver the allocation. Whether or not specific conditions attached to previously approved planning permissions meet the relevant tests is a matter between the developer and the Council as part of the planning application process. There are no soundness reasons to resolve this dispute through Policy SAP1.
126. It has been suggested that the current impasse will preclude Phase 1 from being completed, which in turn, will render the allocation undeliverable and makes the Plan unsound. However, the cost of delivering the latest upgrades to the Whitfield roundabout has been assessed with, and without, contributions from Phase 1. Even without any financial contribution from the approved scheme, the main developer states clearly that the allocation remains viable.
127. Other developments may come forward during the plan period and impact on the Whitfield and Duke of York roundabouts. For example, Policy SAP2 supports employment development in the area, but the detail of such schemes is yet to be established. If the situation changes, then it would be for the Council to review and update the Plan accordingly. This is also another reason why it would be inappropriate to specify precise amounts in Policy SAP1, which is a strategic policy for a large urban expansion.
128. The issue relating to the SANGs has been considered above under the Legal Compliance heading to this Report. A significant proportion of the allocation remains and is under the control of other developers. Policy requirements specifying the approval of a masterplan and a phasing and delivery strategy for the remaining parcels will ensure that matters such as open space, access, habitats and drainage are all adequately controlled.
129. In conclusion, there remain obstacles to overcome at Whitfield to achieve the aims and objectives of the Plan. To date, housing delivery has been slower than the Council envisaged when the Core Strategy was adopted. However, progress has been made and the Council is in receipt of planning applications for further phases, with a signed Statement of Common Ground with the main developer confirming that the remaining site is viable. Subject to the recommended main modifications we are satisfied that the Plan will provide a

flexible and effective policy framework for the strategic site to come forward and is sound.

*Dover Waterfront – Policy SAP3*

130. Land at Dover Waterfront is allocated for a mix of retail, leisure, office, and residential uses. It will contribute towards the ongoing regeneration of the seafront with the aim of delivering a new marina, cruise ship terminal, cargo terminal and distribution centre. Because the site is a mixed-use allocation, for effectiveness, **MM14** includes it in the list of sites contributing towards the economic growth strategy in Policy SP6.
131. The site is allocated in the existing Core Strategy and various planning permissions have already been granted for a mix of uses. Combined with the role that it will play in regenerating the area, its further allocation in the Local Plan is justified. However, as submitted, the scale of housing and commercial uses is unclear. For effectiveness this is rectified by **MM33**. Consequential changes to the supporting text are made by **MM32**. A further necessary change to the supporting text is made by **MM32** which clarifies the allocation's relationship to the nearby safeguarded mineral sites.
132. Dover Waterfront contains several heritage assets such as the Grade II listed Wellington Dock. To ensure that the allocation is justified, effective and appropriate given the context of its surroundings, **MM33** is needed to specify that future developments are of a high-quality design, consider important views and consider local character.
133. The Environment Agency states that, provided the allocation is subject to a detailed masterplan and FRA, it should be possible to design and develop the site safely without increasing flood risk elsewhere. Examination Document CCEB02 includes details of how development can be made safe for its lifetime and how the regeneration of the site will bring about wider sustainability benefits to the community that outweigh the flood risk. The evidence therefore demonstrates how both elements of the exception test is met as required by paragraph 170 of the Framework. Further consideration will be needed at the planning application stage once the final detailed design is known.

*Dover Western Heights – Policy SAP4*

134. The Dover Western Heights is on the slopes overlooking Dover harbour and contains 19<sup>th</sup> century military fortifications that are one of the largest and most elaborate remaining in England. The fortifications are a designated scheduled monument, contain Grade II listed structures and the whole site is a designated conservation area. Since the end of the Second World War and the withdrawal of military personnel the fortifications have become largely vacant and derelict.

135. The wider site is largely undeveloped and falls within multiple ownerships. Work to regenerate the area has been ongoing for several years, with a masterplan and SPD adopted in 2015. Despite this, no significant development has come forward and Policy SAP4 acknowledges that there are significant challenges and complexities in bringing the site forward. The Plan also acknowledges that the cost of restoring the various heritage assets is likely to be significant, and that there will *“almost certainly involve a degree of harmful change that would need to be outweighed...”*.
136. Given the uncertainty around what the wider site can deliver, its viability, issues surrounding multiple ownerships and the site constraints, Policy SAP4 is not justified as submitted. There is nothing to suggest that the mixed-use allocation will come forward for the type of development proposed during the plan period.
137. However, the site is a key regeneration priority for the Council, is a significant local landmark and is synonymous with the history of the south coast. A substantial amount of work has also been undertaken already through the adopted Core Strategy and the SPD. Rather than delete the site entirely, **MM35** therefore modifies the Plan to identify the Dover Western Heights as a Heritage Regeneration Opportunity Site. The change is necessary to make the Plan justified and effective. Having a standalone policy recognises the importance of the site but separates it from the housing and employment allocations which are allocated to meet identified needs over the plan period.
138. For effectiveness, **MM35** is also required to update the policy to seek opportunities to enhance the significance of heritage assets, the understanding of the assets and to utilise the Grand Shaft to connect the site to the waterfront. Consequential changes to the supporting text are made by **MM34**.

#### *Dover Mid Town – Policy SAP6*

139. Dover Mid Town covers an area of approximately 6 hectares and is identified by Policy SP8 as a strategic opportunity area. The site encompasses a mix of main town centre uses and is an existing allocation in the Dover Core Strategy.
140. Policy SAP6 aims to facilitate the comprehensive redevelopment of the area to make it more compact, less linear and to make better use of its proximity to the River Dour. In doing so, it is positively prepared in promoting the regeneration of the area. However, **MM39** makes a necessary change to criterion f) to make it clear that an analysis of important views should be included in the design of any future development proposals, which is needed for effectiveness.
141. Part of the allocated site includes a bowling green which is an existing recreational use. For effectiveness, **MM39** makes it clear that proposals affecting the bowling green should have regard to the protection of open space



under Policy PM5. The allocation is intended to provide overarching policy support for the comprehensive redevelopment of the area. At this stage there are no specific proposals to remove the existing bowling green, which would have to be considered on their merits against other relevant policies in the Plan.

142. Due to the size and location of the site it lies within Flood Zones 2, 3 and 3b. We have carefully considered the Environment Agency's concerns regarding the need for caution with this site. However, because the allocation covers a significant area of the town centre and is allocated for a mix of uses as part of the town's wider regeneration, there is sufficient scope for proposals to come forward in accordance with the flood risk hierarchy. This will be for the planning application and masterplanning process to determine when looking at the type and distribution of land uses and open space.
143. Furthermore, Examination Document CCEB02 includes details of how development can be made safe for its lifetime and how the regeneration of the site will bring about wider sustainability benefits to the community that outweigh the flood risk. The evidence therefore demonstrates how both elements of the exception test is met as required by paragraph 170 of the Framework. Further consideration will be needed at the planning application stage once the final detailed design is known.

#### *Bench Street Dover – Policy SAP7*

144. Land at Bench Street is also identified as a development opportunity area and is one of the main 'gateways' to the town centre and the Primary Shopping Area. Allocating the site for a mix of uses is justified and reflects the regeneration aspirations for the area. However, to be effective, it is necessary to list the approximate scale of residential development in the policy, rather than the supporting text (**MM40**). For the same reasons, and to ensure that the policy is justified given its location and context, **MM40** is required to state that proposals must also achieve high quality design.

#### *Land Adjacent to Gas Holder, Coombe Valley Road – Policy SAP8*

145. The Council's viability evidence suggests that brownfield sites in Dover will be challenging. However, updates provided to the Council in October 2023 indicate that remediation is ongoing, and that the allocation will be offered to the market for residential development in 2024. When also considering that other brownfield sites have come forward in the surrounding area, we are satisfied that the allocation is justified and is likely to be developed over the plan period.
146. Given its urban location, the site constraints and the presence of open space nearby, it is expected that some of the open space requirements could be met through off-site contributions. For effectiveness, this is made clear by **MM41**.

*Land at Barwick Industrial Estate – Policy SAP9*

147. Part of the allocation is within the Kent Downs AONB. **MM42** is therefore needed to correct the supporting text to make the Plan accurate and justified.
148. There is a resolution to grant planning permission for 120 houses on the eastern part of the site, outside the AONB. Impacts on the landscape character of the area have therefore been established and judged to be acceptable by the Council. Based on the evidence provided, we find no reasons to disagree.
149. The remainder of the site lies within the AONB. However, planning permissions for residential development have been granted on that part of the site before and were judged to conserve and enhance the landscape and scenic beauty of the area. When also considering the relatively limited scale of residential development likely to come forward on the remaining parcel, the context of the surrounding built-up area and the previous uses on site, we are satisfied that an appropriate scheme can be achieved. We concur with the common ground between the Council and the Kent Downs AONB Unit that the allocation does not represent major development in the AONB. The allocation is justified and the policy includes appropriate safeguards to manage future development.

*Buckland Paper Mill – Policy SAP10*

150. Outline planning permission for 135 dwellings on Phase 2 was granted in December 2023. The principle of development has therefore been established, including any necessary mitigation. Redevelopment of the brownfield site will contribute towards the regeneration of Dover and the allocation is sound.

*Westmount College – Policy SAP11*

151. The former Westmount College site is an area of previously developed land which has become overgrown and partially reclaimed by nature. Towards one end of the site there is an informal area of open space and array of solar panels. This part of the site also backs onto an area of woodland used by walkers.
152. Requiring development proposals to provide pedestrian links through the site is justified in the interests of good design and promoting more sustainable travel patterns. However, the location of the solar panels will ultimately dictate the feasibility of this requirement, which will only be known at the final design stage. **MM46** therefore includes the relevant caveat in criterion a) to make the policy effective, with necessary changes to the supporting text made by **MM45**.
153. The position of solar panels could also prevent the creation of a landscaped buffer between the site and the woodland to the north. But additional planting

could be used to mitigate the impact of long-distance views instead. For effectiveness this is made clear by **MM46**.

154. Criterion i) requires a community facility on site unless it can be demonstrated that such facilities exist elsewhere. No justification has been provided for this requirement and any necessary contributions to community infrastructure would be covered by other policies. It is therefore deleted by **MM46**.

#### *Charlton Shopping Centre – Policy SAP12*

155. **MM47** and **MM48** amend the title of Policy SAP12 to clarify that the developable area comprises the existing multi-storey car park and not the shopping centre. They also correct an error in the address and main access location. The changes are necessary for effectiveness. It will also be necessary for the Council to update the policies map on adoption to make the same corrections.

#### *Dover Small Housing Sites – Policy SAP13*

156. As submitted, the allocation for Albany Place Car Park (DOV019) omitted a portion of the existing car park in error. This is rectified by **MM49** which increases the indicative housing capacity for the site from 15 to 20 dwellings. The modification ensures that the Plan is justified and effective. Consequential changes to the policies map will also be required by the Council on adoption.
157. Land to the north of Coombe Valley Road (DOV022c) is close to two other sites allocated for residential development (SAP8 and SAP9). In the interests of good design and promoting sustainable modes of transport (and thus, for consistency with national planning policy), **MM50** requires proposals to consider wider pedestrian and cycle connectivity, having regard to the redevelopment proposals nearby. For effectiveness, the same requirement is introduced into Policies SAP8 and SAP9 by **MM41** and **MM43**.

### **Deal Housing Sites**

#### *Land off Cross Road – Policy SAP14*

158. A resolution to grant planning permission is in place for 140 dwellings. The principle of residential development, the scale of housing and its effect on the local highway network have therefore been considered by the Council and found to be acceptable. Based on the evidence provided, we find no reasons to disagree with that conclusion. Although the Council previously refused planning permission, the earlier scheme related to a larger parcel of land and was materially different to the proposed allocation.

159. To reflect the submitted scheme and ensure that the Plan is clear and effective, the correct capacity should be included in Policy SAP14 by **MM54** and **MM55**. Any issues relating to potential conditions attached to planning permissions would be a matter for the Council's enforcement processes.

*Land at Rays Bottom - Policy SAP15*

160. The parcel of land proposed for development has a noticeable change in level. When approaching Walmer from the south along Glen Road/Liverpool Road the land rises from east to west moving inland and away from the coast. The development of approximately 75 houses in this location would therefore be clearly visible and influence the character of the area. This was one of the reasons for not pursuing the allocation in previous local plans.
161. However, the allocated site encompasses the part of the field which is bounded by existing housing to the north and west, including properties on higher ground. In this location, Liverpool Road is also bounded to the east by a large belt of mature trees. Because of the topography of the area, and the size and location of the site, which would not project further south than the existing built-up area of Walmer, the allocation sits within a relatively enclosed wider landscape context. Furthermore, as part of the Plan's preparation the capacity of the allocation has been reduced to roughly 75 houses, giving an overall density of around 20 dwellings per hectare. Substantial landscaping can therefore be provided. For these reasons, combined with the detailed requirements in Policy SAP15(a-c), we consider that a suitably designed scheme can be achieved without giving rise to significant or harmful landscape impacts.
162. All development proposals for the site will have to accord with other policies in the Plan, including Policy CC6. It states that all new development should replicate natural ground and surface water flows and decrease surface water run-off through use of Sustainable Drainage Systems. When the Plan is read as a whole, sufficient safeguards exist to prevent surface water flooding.
163. Along the site frontage Liverpool Road is currently only wide enough for one vehicle, with dedicated passing places. Evidence provided by the site promoters demonstrates how the existing passing places can be formalised with a new access providing the necessary visibility splays. The final detail will be for the planning application process to determine but demonstrates how suitable access arrangements can be made. Criterion (d) of Policy SAP15 also requires road widening and traffic management along the site frontage. KCC has no objections to the proposed allocation, including the proposed point of access and the amount of traffic likely to be generated. We find no reason to disagree.
164. To promote sustainable modes of transport such as walking, **MM56** is needed to specify that the necessary highway works should include the provision of a new

footpath. For the same reasons, and for effectiveness, the policy also needs to specify that the footpath should connect with Gram's Road, providing pedestrian access to wider services and facilities (**MM56**). The Council has reviewed relevant land registry plans and confirms that the works can be achieved. The final design will be for the planning application process to determine.

165. Likewise, other matters can be adequately dealt with through the planning application process, with policy criteria in the submitted Plan to prevent harmful impacts. Examples include the protection of the existing wooded area to the north and opportunities for biodiversity habitat creation and enhancement. Due to the distance and intervening landscaping, we are satisfied that an appropriate scheme can also avoid harmful impacts on the Grade II Registered Park and Garden of Walmer Castle.

#### *Deal Small Housing Sites – Policy SAP16*

166. Requiring new housing to front onto Northbourne Road will reflect the prevailing pattern of development and is justified in the interests of local character for site GTM003. The requirement for a single point of access is also needed for highway safety. As submitted, the site is consistent with the building line to the rear of existing houses and reflects the built form of Great Mongeham. The allocation boundary and scale of development is appropriate and justified.
167. Sport England states that site TC4S008 should be assessed against policies which seek to protect existing open space, sports and recreational buildings and land, including playing fields. However, the Council and site owners have clarified that the sand paddock, stables and paddocks have always been associated with the primary function of the site as a dwelling. Although some lessons were offered, this was done on a private basis and the site was not open to the public. Furthermore, since the development of existing and proposed housing sites on Station Road, the owners have not been able to offer riding lessons for health and safety reasons, with their operating licence expiring in August 2022. When taking these factors into account, and the supply of existing, similar alternative sites in the area, the allocation is justified.
168. One of the criteria of Policy SAP16 is to provide a footpath along the site frontage. This is required in the interests of promoting walking and pedestrian safety. However, for effectiveness the policy should specify that the path can link to existing and *proposed* footways, with a connection to the highway works approved for neighbouring development(s) a logical choice for Station Road. This is achieved by **MM58**.
169. Site TC4S032 (Ethelbert Road Garages) is a small parcel of previously developed land surrounded by housing to the north of Deal. It is allocated for

around 5 houses. Site TC4S047 is another small allocation for 8 houses following the demolition of 104 Northwall Road. Both sites are in Flood Zone 3.

170. For the reasons set out above, we are satisfied that the Council has followed a sequential, risk-based approach to the location of housing sites. Advice from the Environment Agency states that whilst Sandwich and Deal are well defended from tidal flooding, there is always a 'residual' risk from inundation. As such, it is recommended that the ground floor is unlikely to be suitable for living accommodation on either site, with detailed designs needed to be informed by FRAs. The requirement for FRAs is included in Policy SAP16 for both allocations. However, for clarity, effectiveness and to reflect the Environment Agency's advice, **MM59** and **MM60** make it clear that habitable accommodation will likely be required above the design flood levels and that the design should be informed by a FRA.

171. In terms of the exception test, Examination Document CCEB02 identifies the benefits of both sites, which include the regeneration of brownfield (and partially brownfield land) in accessible locations in one of the largest, and most sustainable settlements. Subject to the main modifications above the evidence also demonstrates how development can be made safe for its lifetime. Both elements of the exception test are therefore met as required by paragraph 170 of the Framework. Further consideration will be needed at the planning application stage once the final detailed design is known for both sites.

## **Sandwich Housing Sites**

### *Land South of Stonar Lake – Policy SAP17*

172. Table 4.3 of the Plan sets out the indicative housing capacities for residential allocations in Sandwich. The indicative capacities are also set out in the corresponding allocations, save for Policy SAP17. This is rectified by **MM64**, which is needed for effectiveness and to provide clarity to users of the Plan.

173. As explained through Examination Document ED39, the indicative capacity for the site (around 40 dwellings) was based on a precautionary approach in response to the location of a Scheduled Monument. However, a larger area than first predicted is covered by existing built development. It has also become apparent that the site allocated in the submitted Plan does not reflect the entire landholding and would result in an arbitrary and contrived boundary. When the two issues are taken together, the 40 dwelling threshold would result in a very low-density development that fails to make an efficient use of brownfield land on the edge of a sustainable settlement. The site area and geographical illustration of Policy SAP17 are neither justified nor effective. **MM62**, **MM63** and **MM64** reflect the correct site area and increase the capacity to around 75 dwellings.

On adoption of the Plan, it will also be necessary for the Council to make the relevant changes to the policies map.

174. Around half the site is in Flood Zone 1, with the remaining areas covered by Flood Zones 2 and 3. Detailed policy requirements are therefore included to ensure that the most vulnerable elements of any development proposals are in the lowest risk areas. Examination Document CCEB02 also tests the allocation against the requirements of the exception test. In summary, it concludes that the site can be made safe for its lifetime without increasing flood risk elsewhere and identifies the significant positive benefits that the regeneration of the existing salvage yard would bring about. The requirements of the exception test are therefore met. Given the amount of land available, and the context of the existing uses on site, we are also satisfied that an appropriate design can be achieved that would improve the understanding and significance of the former medieval port area.
175. The HRA finds that the salvage yard and industrial areas are unsuitable for European Golden Plover and therefore a wintering bird survey is not needed. However, the site is less than 500m from the Thanet Coast and Sandwich Bay SPA. Due to its proximity to the SPA, a project-level HRA would be required to consider potential pathways for non-physical disturbance and identify mitigation as required. This is required to ensure that the allocation is justified and effective and is achieved by **MM64**. The main modification also requires development proposals to demonstrate best practice construction measures to avoid impacts on SPA birds, as recommended by the evidence in the HRA. Subject to the changes, Natural England concludes that the allocation is sound, and we agree with this position.

#### *Sandwich Highway Depot - Policy SAP18*

176. The highway depot is within the Sandwich Walled Town Conservation Area and an area of archaeological potential. The design requirements, including the need for a heritage statement and retention of mature trees are therefore justified. However, there is nothing to suggest that the sensitive redevelopment of the yard would be harmful to the character or appearance of the area.
177. As with other allocations in Sandwich, the site is at risk of flooding, with most of the land available falling in Flood Zone 3. For the reasons given above, we are satisfied that the Council has applied a sequential, risk-based approach to the assessment of sites in Dover, Deal and Sandwich. Advice from the Environment Agency is that less vulnerable uses only should be on the ground floors, with appropriate flood warning and evacuation plans and procedures in place. This would be achieved by a combination of the requirements in Policies SAP18 and CC5. Examination Document CCEB02 identifies that the site is in one of the most sustainable settlements, near the train station and town centre

and would bring about the regeneration of brownfield land. These are all benefits, and combined with the recommendations that development can be made safe for its lifetime and will not increase flood risk elsewhere, the exception test is likely to be met at the planning application stage.

178. Previous development proposals for the site have included coach parking, something which the Town Council supports. However, the site is allocated in the Plan for housing, which is appropriate and justified in this location. Examination Document ED40 also confirms that the owners are not considering proposals for coach parking at present. If coach parking is proposed in the future it would be considered on its merits having regard to relevant policies.

#### *Land at Poplar Meadow – Policy SAP19*

179. Around 78% of the site is in Flood Zone 1. The expectation is therefore that development would avoid areas at the highest risk of flooding. This will be controlled by Policy SAP19(e). The size, shape and boundary features of the site means that the allocation is associated with the main built-up area of Sandwich rather than the open countryside beyond. Combined with criterion (a), which requires proposals to respect the rural character and provide a transition to the rural area beyond, we are satisfied that an appropriate form of development can be achieved.

180. The site is allocated for housing. Although previous schemes have considered retail uses, there is nothing before us to suggest that the site is undeliverable or inappropriate for housing. The allocation is justified and sound.

#### *Wood's Yard - Policy SAP20*

181. Wood's Yard falls within Flood Zones 2 and 3. However, it has passed the sequential test along with other allocations in Dover, Deal and Sandwich. Evidence supporting the Plan also demonstrates that it can be made safe for its lifetime and will not increase the risk of flooding elsewhere. The regeneration of a brownfield site in walking distance to the town centre means that the wider sustainability benefits outweigh the flood risk. The exception test is therefore met, and subject to an appropriate final design, the allocation is justified.

182. To achieve the necessary visibility splays onto the adopted highway, some on-street parking on Woodnesborough Road may have to be restricted. In response, Policy SAP20 requires the spaces to be re-provided within the site boundary. This would be a very short walk from the houses on Woodnesborough Road and is a positively prepared and justified response to ensuring that parking spaces remain available to existing residents. The final detail will be controlled through the planning application process.



*Land adjacent to Sandwich Technology School - Policy SAP21*

183. The site is allocated in the Land Allocations Local Plan for approximately 60 dwellings and the expansion of the Sandwich Sports and Leisure Centre. However, through Duty to Cooperate discussions with KCC, and in response to the latest Indoor Sports Facility Strategy<sup>14</sup>, the evidence no longer justifies the need for an enlarged Sports and Leisure Centre. Instead, it points to a need for the expansion of the school to support future growth in the area.
184. The position is set out in the Statements of Common Ground between the site promoter and the Council<sup>15</sup>, and between the Council and KCC<sup>16</sup>. The mix of uses proposed are justified. The Statement of Common Ground (ED25) also clarifies that 0.8 hectares of land will be required for the school. It is intended to use part of the allocated site for new playing fields, thus freeing-up space on the existing school site. For effectiveness, this is made clear by **MM68** and **MM69**.
185. After the transfer of land, around 2.6 hectares would remain available for residential development. This is a greater residual area than first envisaged by the Council. At an average density of 30 dwellings per hectare, the site could therefore achieve around 60 houses even accounting for areas of open space and mitigation. This position is agreed by the Council as set out in Examination Document ED41. A capacity of 60 dwellings also ensures consistency with the existing allocation. To make the Plan justified and effective, **MM62**, **MM69** and **MM178** therefore amend the approximate site capacity to 60.
186. Primary vehicular access will be taken from Deal Road. To provide greater flexibility, and for effectiveness, **MM69** refers to 'accesses' if more than one entry point to the site is used. Only cycle and pedestrian access is proposed from Dover Road, which for effectiveness is made clear by **MM69**.

*Land at Archers Low Farm – Policy SAP22*

187. Land at Archers Low Farm is allocated for approximately 35 dwellings. A larger allocation for around 50 dwellings on the same site was found unsound and deleted by the Inspector examining the Land Allocations Local Plan in 2014. Another Inspector then dismissed an appeal for 44 dwellings on the site in February 2023 (Ref. APP/X2220/W/22/3303230). We have very carefully considered the issues raised by the previous Inspectors, the local Member of Parliament, and the significant volume of representations from local people.

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<sup>14</sup> Submission Document PMEB02

<sup>15</sup> Examination Document ED25

<sup>16</sup> Examination Document ED19

188. The Inspector examining the Land Allocations Local Plan concluded that the site is an integral part of the unspoilt countryside around Sandwich and makes a significant contribution to its setting. The construction of dwellings and formation of a new access onto Sandown Road was considered to constitute an unwarranted intrusion into the countryside to the detriment of landscape character that would not be mitigated by the retention of trees. Similar views were expressed in Appeal Decision APP/X2220/W/22/3303230.
189. However, the examining Inspector in 2014 was considering a larger allocation for around 50 dwellings. The appeal scheme was also larger, seeking planning permission for 44 dwellings. Since then, the scale of development proposed has seen a material reduction in size, which allows for a greater amount of landscaping and open space without the need to build up to the tree belt surrounding the site. Further detailed design work has also been carried out. This includes changing the size and design of the proposed site access, from a straight road almost 9m wide and bookended by houses to a narrow access of around 5m winding through the existing tree belt to minimise views of the housing beyond. A survey of trees along Sandown Road has also been carried out and demonstrates that a revised layout, based on a fewer number of dwellings, avoids the need to remove any Category A trees at all. In addition, the site promoter's latest plans include the planting of around 300 additional trees. The reduction in the scale of development proposed and the increase in design quality and mitigation represents a materially different situation to the one facing the previous Inspectors.
190. Furthermore, the evidence before us includes an Officer appraisal of the site having regard to the previous examining Inspector's decision<sup>17</sup>. In summary, the site is appraised as flat with a substantial landscape buffer comprising mature trees and hedgerows to the east, south and west and existing housing to the north. For these reasons, it is concluded that the site is well screened, with limited views of the surrounding countryside and potential for effective mitigation, providing that the existing landscaping is enhanced to ensure year-round screening. We observed a similar position at our site visit in January 2024. Despite the time of year, the site was visually contained by extensive boundary landscaping to the east, south and west, limiting views to and from the site from surrounding vantage points.
191. In summary therefore, whilst carefully considering the points raised by the previous Inspectors, the position before us is materially different given the reduced scale of the allocation, the further detailed design work which has gone into addressing the main issue around landscape character and the convincing written and oral evidence provided by the Council. We appreciate the significant amount of local opposition to this allocation. However, subject to strict policy criteria, we are satisfied that the site is justified and will contribute

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<sup>17</sup> Submission Document GEB09d Appendix 3A

towards meeting the future housing needs of the area. If a suitable design and layout cannot be found, there remain sufficient safeguards within Policy SAP22 for the Council to refuse planning permission.

192. The sensitive landscape context of the site and the need for a carefully designed scheme is therefore paramount. In addition to the existing design-based criteria, Policy SAP22 must be modified to require the layout, landscaping, and design of the development to be informed by a Landscape and Visual Impact Assessment ('LVIA') to minimise its visual impact and views from Sandown Road. This is achieved by **MM70**.
193. Parts of the site are within Flood Zones 2 and 3. However, this only relates to a very small area along Sandown Road. Subject to a FRA to inform the design and layout of the site, it should be possible to achieve an appropriate scheme that avoids placing vulnerable uses in areas at risk of flooding.
194. In addition to the main modifications discussed above, **MM70** is also needed to delete the requirement for an "environment assessment study" to consider impacts on the Sandwich Bay SPA and Ramsar site. As agreed in the Statement of Common Ground with Natural England<sup>18</sup>, this is not necessary or justified. Although the site is identified as having moderate potential for qualifying birds in the SPA, other policies in the Plan provide a more effective framework to consider the issues and prevent harm, such as Policy NE3.
195. No objections have been raised by KCC Highways in relation to the proposed access or impacts on the local road network. Given the relatively limited scale of housing proposed, combined with its location on the edge of an existing settlement, we find no evidence to suggest that it would give rise to any significant cumulative impacts on highway safety or the operation of sports, leisure and tourist facilities in the area.

*Sydney Nursery, Dover Road - Policy SAP23*

196. In allocating the site the Council concluded that the boundary would reflect the prevailing built form of the area which follows a linear pattern of development along this part of Dover Road/The Crescent. We agree and consider that the extent of the site boundary and the indicative capacity of around 10 dwellings are justified in the interests of the character and appearance of the area.

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<sup>18</sup> Examination Document ED8

## Aylesham Housing Sites

### *Land to the South of Aylesham – Policy SAP24*

197. Although the scale of new housing proposed in Policy SAP24 is significant (640 new homes), it is commensurate with the role and function of Aylesham and its position in the settlement hierarchy. The size of the allocation will also allow for a mix of housing, including housing for older people, open space, and retail provision to meet the day-to-day needs of residents.
198. To the north-east of the site is the Aylesham Development Area (Policy SAP25). This is a separate allocation for employment uses and is not tied to the urban expansion. For effectiveness, the position is made clear by **MM71** and **MM73**. Due to the strategic nature of the allocation the requirement for a masterplan is justified, however, for effectiveness additional supporting text is provided by **MM72** to provide further detail on what is required.
199. As submitted, Policy SAP24 requires an investigation into the A257/B2046 Wingham High Street junction, with improvements “if feasible”. It is common ground between the Council and KCC that the junction suffers from peak-hour congestion and that the impact from the development will marginally exacerbate the situation through increased demand<sup>19</sup>. However, further investigations have been carried out and conclude that there is insufficient land available to deliver a workable solution that would bring the junction back into capacity. The requirement is therefore ineffective and must be deleted by **MM74**.
200. This does not mean that the allocation is unsound. Further modelling carried out by the site promoters shows that the baseline position on the local road network has improved. Subject to a robust travel plan, with real incentives to reduce single car occupancy and promote sustainable travel, and the provision of a new or enhanced bus service, the view of KCC is that the allocation remains sound. Whilst the allocation will add to queuing traffic to the junction at peak hours, there is no evidence to show that the effects will be severe. Further information on what is required of the travel plan and to promote more sustainable modes of transport is included in **MM74**. The changes provide the necessary clarity and are required to make the policy justified and effective.
201. The latest iteration of the IDP shows that there would be an impact from the allocation on the A256/A257 junction. To reflect the latest evidence and ensure that the allocation is justified and effective, the need to either deliver, or contribute towards, the necessary mitigation is required by **MM74**. For the same reasons, and to help mitigate impacts on the strategic road network, proportionate contributions will also be required towards mitigation at the Whitfield and Duke of York roundabouts (**MM74**). The precise details and

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<sup>19</sup> As set out in Examination Document ED31

necessary mitigation will be informed by a Transport Assessment, which is already referred to in Policy SAP24(g).

202. The evidence supporting the Plan has looked at key transport routes in assessing likely impacts. However, growth at Aylesham could also have an impact on the surrounding rural road network, particularly east/west routes. Although there is no evidence to suggest that this would lead to any severe impacts that would prevent the allocation coming forward, consideration of traffic arising from the development should nevertheless be a requirement of the policy. The modification is achieved by **MM74** and ensures that the allocation is justified and effective.
203. Criterion (i) requires a LVIA to inform the design and layout, in addition to generous landscape buffers. Subject to these requirements, combined with the distance from the site to the AONB, existing wooded areas and the urban backdrop of Aylesham, a suitable scheme should be possible without causing harm to the setting of the AONB or wider landscape character. To protect the integrity of Ackholt Woods (an Ancient Woodland), criterion (k) specifies the need for a 15-metre buffer zone. However, we agree with the conclusion of the Woodland Trust that **MM74** is necessary to increase the buffer to 20m to protect the woodland. The change, which is needed for effectiveness, can be adequately incorporated in the emerging masterplan for the site.
204. Due to the size of the allocation, the provision of employment, community and retail facilities on-site will help reduce the need to travel by car and meet the day-to-day needs of residents. However, there is no need to specify that this must be “small scale” and instead will be more appropriately considered as part of the masterplanning process. **MM74** makes the change for effectiveness.
205. Financial contributions will be required towards the upgrading of facilities in the area to support the growth proposed at Aylesham. To provide further flexibility and for effectiveness, **MM74** expands the list provided in Policy SAP24(q). The main modification also includes reference to necessary upgrades to the strategic road network.

#### *Land at Dorman Avenue – Policy SAP27*

206. The site contains trees and shrubs which have become overgrown. Although it is likely to be appropriate for some trees to be retained, there is nothing to suggest that their presence would preclude residential development altogether. Instead, for effectiveness, the policy should be clear that the final site capacity and layout will be informed by the necessary tree surveys (**MM78**). Whilst the policy refers to 9 dwellings, this is only indicative and would not preclude a smaller development coming forward if required due to site constraints.

## Local Centres

207. **MM79** and **MM81** are necessary to correct errors to ensure that the Plan is justified where Eythorne, Elvington and Shepherdsweil are concerned. The changes correct the supporting text which provide the context and background to the villages and describe their position in the hierarchy.

### *Land between Eythorne and Elvington – Policy SAP28*

208. The allocation is for approximately 300 dwellings, which represents a sizeable extension to Elvington and is larger than some allocations elsewhere. However, as discussed above, the two villages are within very close proximity to one another and the services and facilities on offer in Eythorne are easily accessible from Elvington. Subject to ensuring that development respects the separate identity of both settlements, the allocation will not be harmful to local character.

209. To make the Plan effective in retaining the separate identity of the two settlements, **MM82** introduces a requirement to maintain a visual and physical separation between Elvington and Eythorne. For the same reasons, and in the interests of good design, **MM82** is needed to specify that the design and layout of the site is informed by a LVIA, which should also inform the necessary landscape buffers, and that phasing details are provided. For effectiveness, **MM82** also modifies the text relating to the need for heritage and archaeological assessments, which should inform the layout and design of the development. However, to ensure consistency with other policies in the plan, the text should refer to seeking to avoid or minimise harm to any heritage assets. We have therefore made the necessary change to the wording of **MM82** in the Appendix.

210. Transport modelling prepared in support of the Plan shows that the Wigmore Lane/Church Hill junction to the south of the site has sufficient capacity. As a result, no specific mitigation is identified other than traffic management improvements to Church Hill<sup>20</sup>. In the November 2023 Statement of Common Ground between the Council and KCC<sup>21</sup>, it is agreed that the traffic management should be extended to include Adelaide Road. Given the width of the carriageway, the ability for on-street parking and the likely movement of vehicles from the allocation, this is needed to make the allocation justified and any highway works effective. In the interests of highway safety, it is also necessary to expand the consideration of impacts to include cumulative effects with other sites allocated in the Plan. Both changes are achieved by **MM82**.

211. As submitted, criterion (f) required proposals to investigate the opportunity for an access off Wigmore Lane. But this would require land that falls outside the site boundary, which is unavailable. Moreover, the Council states that a

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<sup>20</sup> Submission Document GEB06

<sup>21</sup> Examination Document ED31

suitable access can be gained from Adelaide Road and Terrace Road. The requirement is therefore neither justified nor effective and deleted by **MM82**.

212. The precise mix of uses will be for the masterplanning process to determine. Introducing different uses is justified in the interests of promoting sustainable development and meeting day-to-day needs. To provide some flexibility, consistency with other allocations in the Plan and for effectiveness, **MM82** deletes the requirement for the retail element to be "small" in favour of an appropriate scale to meet day-to-day needs through the design process. **MM82** also makes the policy effective by specifying that employment opportunities are likely to be offices or work hubs given the rural location of the site.
213. No site-specific viability evidence has been provided to demonstrate that undergrounding the power cables is feasible. The site promoters also state that appropriate safety buffers can be included in the layout. The requirement is not justified and consequently is deleted by **MM82**.
214. A known turtle dove territory (a priority species) is within 1km of the site. In addition to requirements which seek to protect existing habitats and provide safe routes for wildlife, the nesting and foraging habitats of the turtle dove needs to be established and avoided (or suitable mitigation provided) to justify the allocation. The relevant changes are made by **MM81** and **MM82**.
215. **MM82** provides flexibility by encompassing a wider range of infrastructure improvements, including strategic highways, which could be required due to the scale of the allocation. It also makes a cross reference to the IDP. Both changes are needed for effectiveness. Although the word "proportionate" is not included, this does not make the Plan unsound. Any financial contributions will have to accord with the tests for planning obligations and be reasonable in scale and kind to the development proposed.

*Land on the southeastern side of Roman Way, Elvington – Policy SAP29*

216. The allocation will round off the northern part of the main built-up area of Elvington. Subject to providing a sensitive, landscape buffer to the northern and western site boundaries and achieving a high-quality design, the allocation will not cause any significant harm to the landscape character of the area.
217. Primary access to the site will be taken from Beech Drive. KCC Highways has reviewed this arrangement, and the cumulative impact of development on the wider network. No objections have been raised. Based on the evidence provided, we find no reasons to disagree. The allocation is justified and sound.

*Chapel Hill, Eythorne - Policy SAP30*

218. The leases on the Council-owned garage site are set to expire in 2030. The site will therefore become available for development during the plan period.
219. Information provided in the Council's hearing statement demonstrates how 5 houses can be achieved whilst retaining trees on the western site boundary. For effectiveness, **MM84** clarifies their location and the need for their retention.
220. The highways assessment in Submission Document GEB09c suggests that 5 dwellings would take the scale of development over KCC's recommended number of houses that can be served by a private drive. However, the figure in the Plan is only indicative. When considering the existing use of the site, the limited scale of development proposed is unlikely to result in a situation which is harmful to highway safety. Submission Document GEB09c also suggests that replacement spaces are likely to be required for existing residents. Again, the final details and precise consideration of highway safety would be for the planning application process.

*Land at Buttsole Pond, Eastry - Policy SAP32*

221. Eastry is a Local Centre and has a good range of services and facilities. The cumulative scale of development proposed in the village is commensurate with its size, role, and function.
222. Access to the site is to be taken from the southern end on to Lower Street. Subject to final details being agreed at the design stage, and any necessary mitigation as required (which may include restrictions for on-street parking around the site access) KCC Highways has raised no in principle objections. However, to ensure pedestrian accessibility to the centre of the village, **MM87** is needed to specify that a link must be provided to the north of the site up to the boundary with Lower Street and provide pedestrian crossing improvements. The changes are needed for effectiveness and to promote more sustainable modes of transport, consistent with national planning policy.

*Eastry Small Housing Sites – Policy SAP33*

*EAS009- Eastry Court Farm*

223. Given issues around heritage, access and the character and appearance of the area, specifying that proposals will be limited to converting the traditional barns and redeveloping the modern buildings is justified. So too is the indicative site capacity. However, for effectiveness Policy SAP33 needs to specify that access will be taken from Church Street and that additional landscaping must also be



provided along the south-eastern boundary (**MM88**). We are satisfied that housing can be achieved on the site over the plan period and that there are no constraints preventing its delivery.

*TC4S023 – Land adjacent to Cross Farm*

224. Access to the site will be taken from Lower Street. KCC Highways have not raised any objections and confirm that the necessary visibility splays should be achievable, although some on street parking restrictions may be required. We see no reason to disagree and find that the allocation is justified and sound.

*Land at Woodhill Farm, Kingsdown – Policy SAP34*

225. The Statement of Common Ground between the Council and the AONB Unit states that the potential landscape impact of housing can be managed by a combination of a sensitively designed scheme, development set back from the western boundary and through structural planting. These requirements are translated into Policy SAP34, and we agree that they will be effective in mitigating the visual impact of development on the landscape. However, as submitted, the policy also requires “advanced tree planting”, with trees expected to be planted ahead of construction. This would be impractical and ineffective as any mature trees planted on site prior to the commencement of development would likely be damaged during the construction phase. It would also offer very little scope for flexibility should minor changes be required as development progresses, and potentially stifle development starting at certain times of the year. The same outcomes could be achieved through a high-quality programme of landscaping implemented in accordance with details approved by the Council. The necessary changes are made by **MM90** for effectiveness.

226. The requirement for advanced tree planting is also in Policy SAP38 (Reach Road, St Margaret's at Cliffe). For the same reasons, it is deleted by **MM97**.

227. Initial consultation with KCC Highways as part of the Plan's preparation concluded that further information was required in relation to the access on Ringwould Road. However, correspondence between the site promoters and KCC has demonstrated that the necessary visibility splays can be provided from the site entrance along Ringwould Road by removing part of the existing site frontage. This would involve a realignment of the road. But there is nothing to suggest that it cannot be achieved within the land owned by the promoter or give rise to any significant visual impacts, including any works that would be harmful to the landscape qualities of the AONB. For effectiveness, the requirement is made clear in the Plan by **MM90**.

228. A public right of way runs through the allocation to a point near the access with Ringwould Road, before turning past the adjoining play area and continuing into

the village. Rather than requiring proposals to just provide a connection to the adjacent play area, in the interests of securing a safe and suitable site access and promoting walking, **MM90** states that a connection should be made to the settlement itself. The modification is required for consistency with paragraphs 104 and 110 of the Framework. For effectiveness, it is also necessary to specify what improvements will be required and where (**MM90**). Where the public right of way crosses the site entrance, appropriate design solutions will be needed as part of the final design to ensure the safety of footpath users.

*Land adjacent to Courtlands - Policy SAP35*

229. The proposed allocation does not extend any further north than the adjacent houses on Kingsdown Road. Combined with the limited scale of development proposed (around 5 houses), the allocation would not represent a harmful intrusion into the open countryside or result in any coalescence. We are satisfied that an appropriate form of development can be achieved without causing harm to the landscape.

230. However, given the topography of the area and the wide-reaching views from public footpaths on higher ground, **MM91** is needed for effectiveness to specify that these matters should be considered in the final design. For the same reasons, the hedgerows for protection and enhancement should be listed. Because the Plan is read as a whole, other policies relating to design and access would ensure that an appropriate northern boundary and access to the site are secured. The limited scale of development proposed would not result in any severe highways impacts to the detriment of pedestrian or vehicular safety.

*Land at St Andrews Gardens, Shepherdswell – Policy SAP36*

231. The cumulative scale of residential development is appropriate for a village the size of Shepherdswell, which is a Local Centre with a good range of services. The allocation comprises two land parcels promoted by separate developers. Planning applications have been submitted for each parcel. However, this does not mean that the allocation is unsound. The Plan is justified in promoting the land as a whole and seeking a rational design across both parcels.

232. As submitted, Policy SAP36 states that the primary access should be taken from St. Andrews Gardens, with a link through to the smaller parcel (TC4S082). An additional, secondary access was then required from Mill Lane. However, as part of the planning application processes it has been demonstrated that access can be taken from St. Andrews Gardens and Mill Lane. Provided that a link is provided between the parcels to allow for emergency vehicle access and is retained thereafter, we are satisfied that the necessary detail can be agreed as part of the final design, including issues relating to the gradient. The main modification is made by **MM92** and is needed for effectiveness. For the same

reasons it also clarifies that a speed survey is required to secure the appropriate visibility splays for highway safety.

233. St. Andrews Gardens is narrow in places with unrestricted on-street parking. However, the issue has been considered in detail as part of the planning application process for 39 dwellings (Reference 22/01207), which the Council resolved to approve in February 2024. In summary, the Council concluded that the cumulative scale of development would not lead to any severe impacts on highway safety, including wider impacts on the rural road network, provided that two points of access are achieved. Based on the evidence provided, we find no reasons to disagree. As a result, whilst specific development proposals may have been refused planning permission in the past, and subsequent appeals dismissed, there is no persuasive evidence before us to demonstrate that the highway situation would be unacceptable such that it would render the allocation unsound. The situation before us is materially different to the previous Inspector considering an application for planning permission.

#### *Shepherdswell Small Housing Sites – Policy SAP37*

234. Site SHE006 represents a logical continuation of built form along Coxhill Road, and subject to a suitable design, can integrate successfully into the landscape. Information provided in support of the allocation also demonstrates how a suitable site access can be achieved, in addition to a pedestrian link with the existing footpath on Coxhill Road.

235. For effectiveness, **MM93** clarifies that the existing hedgerow should be retained where possible to allow for the formation of the site access and connection to the existing footpath. For the same reasons, it also confirms that improvements will be required to the existing public right of way which passes through site. The detail of the necessary improvements will be for the final design to establish.

236. Land off Mill Lane (SHE008) is bounded on both sides and to the front by existing houses. The extent of the site also reflects the existing building line along the southern boundary of the village and will infill the main built-up area. Allocation of the site for approximately 10 houses is justified.

#### *Reach Court Farm, St Margaret's at Cliffe - Policy SAP38*

237. The access track serving Reach Court Farm forms an appropriate southern boundary. It will create a strong, clearly defined settlement edge.

238. Around 60% of the allocation falls within the Kent Downs AONB and the Heritage Coast. It is common ground between the Council and the AONB Unit

that the scale of housing proposed in the AONB does not represent major development. When considering the proximity of existing development, the possibility to create a strong boundary and the context and backdrop of the existing settlement, we agree. For the same reasons, we are also satisfied that an appropriate scheme can be achieved at the planning application stage that will conserve the scenic beauty of the AONB and will be consistent with the special character of the area Heritage Coast.

239. Policy SAP38 specifies that the transition with the rural landscape must be considered along with appropriate landscaped buffers as part of the design. In addition to the other policies in the Plan, we are satisfied that sufficient safeguards exist to ensure that an appropriate form of development is achieved. Other policies also require a consideration of impacts on the living conditions.
240. A small area of the site includes land with the potential for contamination. For effectiveness, this is made clear by **MM96**. For the same reason the modification refers to the site's location in a designated Heritage Coast.

#### *Land West of Townsend Farm Road - Policy SAP39*

241. Land at Townsend Farm Road is contiguous with the settlement boundary and is visually contained by existing built development and a strong tree belt to the west. Due to the number of dwellings proposed, its context and relationship to the existing settlement, we agree with the Council and the AONB Unit that the allocation does not represent major development in the AONB. The Landscape Sensitivity Assessment<sup>22</sup> also found that the site can accommodate housing without significant landscape or visual change, despite the topography. Again, this is because the site relates well to the form of the village and surrounding residential development. Subject to an appropriate final design, development will be possible in a way that conserves the scenic beauty of the AONB.
242. Access to the site will be from Townsend Farm Road, with a requirement in Policy SAP39 to provide pedestrian crossing improvements including dropped curbs near the junction with High Street. For effectiveness, and to promote pedestrian permeability, **MM98** is also needed to require improvements to the public right of way along the western boundary. The specific nature of the improvements necessary will be for the final design to establish.
243. Townsend Farm Road narrows as it approaches the small housing development opposite the site at Meadow View. In the interests of highway and pedestrian safety, Policy SAP38 is justified in requiring the localised widening of the road. This can be achieved within the land proposed for development.

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<sup>22</sup> Submission Document GEB11

*St Margaret's at Cliffe Small Housing Sites - Policy SAP40*

244. Land at New Townsend Farm (site STM006) is allocated for approximately 10 dwellings. The site is bounded by existing housing farm buildings. It would not project any further into the open countryside than the rear gardens of neighbouring properties. For these reasons, and given the limited scale of housing proposed, we are satisfied that a scheme can be achieved that does not represent major development in the AONB and conserves the scenic beauty of the area. The scale of housing proposed is justified and there are no soundness reasons to modify the allocation. As with all allocations, the number is indicative and will be for the planning application to determine the final details.
245. Access to the site will be taken from Station Road using the existing track. No evidence has been presented to demonstrate that this would be unsuitable for 10 dwellings, although the specific detail relating to visibility splays will need to be determined by speed surveys. This is a requirement of Policy SAP40.
246. The policy also states that the allocation is "suitable for executive homes". Evidence in the Strategic Housing Market Assessment Partial Part 2 Update<sup>23</sup> shows that a 33% increase in owner-occupied homes with four or more bedrooms will be needed over the plan period to meet demand. Although the mix of housing in the area will largely be controlled through the application of Policy H1, the Council has sought to identify sites where a low-density form of development, helping meet the need for larger homes, will be acceptable in principle. Given the location of the site on the edge of St Margaret's at Cliffe, and the context of its predominantly rural surroundings, the identification of this site as suitable for a lower density of development is justified.
247. Land between Salisbury Road and The Droveaway (site STM010) is noticeably higher than its surroundings and effectively forms a raised plateau at one of the highest points of the village. Public rights of way also run alongside and through the prominent site, meaning that any development in this location would be clearly visible from the public domain.
248. As set out in our Initial Findings<sup>24</sup>, due to the topography of the area and the prominence of the site, a development of around 10 houses in this location would have a significant visual impact. It would represent an unsympathetic and incongruous addition that would detract from the defining features and characteristics of the area, which include dramatic coastal landforms and the open, exposed arable landscape which stretches inland from the coast.

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<sup>23</sup> Submission Document HEB01c

<sup>24</sup> Examination Document ED45

249. Although it has been suggested that houses could be sited on the lower parts of the site supported by a LVIA, most of the allocation is higher than its surroundings. We are therefore not convinced that an acceptable form of development could be achieved, even for a lower number of dwellings.
250. Similarly, any new planting would take a significant amount of time to reach a level whereby it would effectively screen the development. Even then, we find nothing to suggest that it would be capable of mitigating the significant visual impact of housing on this elevated site. In summary, the development of the site would be harmful to the character and appearance of the area and would fail to conserve and enhance the scenic beauty of the AONB. Policy SAP40 (STM010) is therefore not justified and is deleted from the Plan by **MM94**, **MM95**, **MM99** and **MM100**. Changes to the policies map will also be required.

*Staple Road, Wingham - Policy SAP41*

251. Full planning permission has been granted for the erection of 71 dwellings. The principle of development, including impacts on landscape character and highways have therefore been established and the allocation is justified.
252. If an alternative scheme comes forward, **MM101** is needed for effectiveness to clarify that connections should be made to the existing footway network to promote sustainable travel patterns, and for the same reasons, to retain the existing public right of way that crosses the site. The planning application process has also shown that the widening of Staple Road is not needed, which is deleted by **MM101** to ensure that the policy is justified. Following the reclassification of the buffer zones referred to above, specifying the need for a wintering bird survey is not justified and is also deleted by **MM101**.

*Wingham Small Housing Sites - Policy SAP42*

253. Land adjacent to Staple Road (WIN003) is opposite site allocation SAP41, which now benefits from planning permission. It is bounded by existing development on three sides and would form part of the built-up area of the village. Combined with its proximity to services, the allocation is justified.
254. It has been suggested that the housing capacity for this site could be higher. However, the figure in the Plan is based on evidence in the HELAA and Officer judgements around what would be an appropriate density. When also considering that the figures are indicative, with flexibility provided through the planning application process, the policy is sound.

*Land at Short Lane, Alkham - Policy SAP43*

255. The principle of residential development has been established through the approval of planning permission for 8 dwellings and the allocation is justified. **MM104** is needed for effectiveness to clarify what the development requirements are for the site if an alternative scheme is pursued.

*Great Cauldham Farm, Capel-le-Ferne - Policy SAP44*

256. Land to the east of Great Cauldham Farm is bounded on three sides by existing residential development on the edge of Capel-le-Ferne, which benefits from a good range of services and good connections to neighbouring Folkestone. It is an appropriate location for housing. For the same reasons, the site can be developed without significant harm to wider landscape character or the setting of the Kent Downs AONB.
257. Primary vehicular, pedestrian and cycle access will be taken from Capel Street following the demolition of an existing property. This requirement is justified on highway safety grounds due to the width of Cauldham Lane, which is unsuitable as the primary access. However, its use as a secondary access for emergency vehicles would be acceptable. For effectiveness, this is made clear by **MM105**.
258. To the south of the site Cauldham Lane and Capel Street converge at the junction with New Dover Road (B2011). The requirement for a Transport Assessment to identify any necessary mitigation is justified for highway safety. For the same reasons, and for effectiveness, it is necessary to require a review of on-street parking to ensure that sufficient space can be provided for larger vehicles turning into the site (**MM105**). Other development management issues can be appropriately considered at the planning application stage.

*Capel-le-Ferne Small Housing Sites – Policy SAP45*

259. Land at Longships, Cauldham Lane (CAP009) sits at the edge of the settlement. Planning permission has now been granted for 15 flats. The principle of residential development including any impacts on landscape character and the highway network have therefore been established. The allocation is justified and sound.
260. The former Archway Filling Station (CAP011) is within the Kent Downs AONB. Due to the limited scale of development proposed (10 houses), the residential context of the site (with existing development to the east and south), and the presence of mature boundary landscaping, we agree with the Council that the allocation does not represent major development in the AONB.

261. Concerns have been raised by the AONB Unit that the site is unrelated to any existing built form, would represent development in the countryside and is not complementary to the existing settlement pattern. However, the allocation is adjacent to existing housing which fronts onto New Dover Road. It is also opposite a combination of modern housing and a holiday park and is contained in the wider landscape by the existing boundary landscaping. For these reasons, the allocation does not represent a visual or physical intrusion into the wider countryside and will be read in the context of its varied urban surroundings. Subject to an appropriate design, informed by a LVIA, we are satisfied that the site can be developed in a way that conserves the landscape and scenic beauty of the AONB. Furthermore, given the size of the site and the likely scale of development it would provide, its development would not compromise the open agricultural land beyond.
262. Subject to requiring an LVIA (which is secured by **MM106**), the allocation is justified. For effectiveness, **MM106** is also needed to require a site-specific FRA and to delete a superfluous requirement relating to trees, which is provided elsewhere in Policy SAP45 in greater detail.
263. Site CAP013 (land at Cauldham Lane) benefits from planning permission and the allocation is justified. Because an alternative scheme may come forward and details still need to be approved at the reserved matters stage, **MM107** is needed for effectiveness to clarify the relationship with the adjacent public right of way.

*Land adjacent Langdon Court Bungalow, East Langdon – Policy SAP46*

264. East Langdon is classified by the Plan as a Larger Village and it has a range of services including a village hall, church, children's play area and primary school. The neighbouring village of Martin Mill also has a train station providing connections to Dover and Deal. The scale and location of housing is justified.
265. Primary access will be from The Street/East Langdon Road, as they merge into one and are effectively the same stretch of highway. To be effective this is made clear by **MM109**.
266. Given the size of the site, its rural location and the relatively open landscape around it, criterion a) is justified in its approach to focussing development in the southern part of the site, with the north/north-western areas remaining undeveloped. However, to provide greater flexibility and make the policy effective, **MM109** is needed to state that the undeveloped areas should be either landscaped or left open. Because of the landscape sensitivity the design should be informed by a LVIA and the woodland to the south of the site should be maintained and enhanced. This is achieved by **MM109**, which for



effectiveness, also clarifies that the retained trees and hedges provide opportunities for biodiversity and habitat enhancement.

267. **MM109** also makes a necessary change to criterion o) to clarify that any extensions and/or enhancements to the existing open space and play area will be sought where appropriate. **MM108** clarifies that the site is within a Groundwater Protection Zone. Both changes are needed for effectiveness.

*Land adjacent to Lydden Court Farm, Lydden – Policy SAP47*

268. To the north-east of the site is the Grade II\* listed Church of St Mary. Due to the distance between the allocation and the church, combined with the intervening farm buildings, it is likely that a scheme can be achieved that preserves its setting and significance. The size of the allocation should also provide opportunities to develop the site whilst preserving the setting of the Grade II listed farmhouse. However, for clarity and effectiveness, both should be considered as part of the detailed design, which should include a strong landscaped boundary to the north and be informed by a LVIA. This is achieved by **MM110**. The modifications will result in a strong emphasis on landscaping.

269. The site is also at risk of surface water flooding. To make the policy justified and effective, **MM110** clarifies that the design and layout should be informed by a FRA to locate vulnerable uses at the lowest areas of risk. **MM110** also makes necessary changes to criterion g) to correct a factual error relating to the bus stop and to clarify that development should provide connections to the public right of way. These changes are needed for effectiveness. Ensuring that works to the public right of way are appropriate will be for the final design.

*Apple Tree Farm, Preston – Policy SAP48*

270. Although land at Apple Tree Farm is within multiple ownerships, the majority of the site is controlled by the site promoter and/or Dover District Council. As a result, we are satisfied that the allocation is developable. To ensure the site does come forward as a whole, **MM111** states that the development of each land parcel must provide vehicular access and servicing up to its boundary with the parcel directly adjacent to it. It also ensures that the wording is clearer. These changes are needed for effectiveness.

271. The requirement for the primary site access to be taken from Stourmouth Road is justified, although other options may be possible, a point accepted by KCC. **MM111** therefore provides further flexibility in the interests of effectiveness.

### *Worth Small Housing Sites – Policy SAP49*

272. Approximately half of the land at East of Jubilee Road (site WOR006) is in Flood Zone 2. For effectiveness, **MM112** therefore deletes the incorrect reference to Flood Zone 3. In September 2023, planning permission for housing was refused because it failed to comply with the sequential test. However, for the reasons given above, the Council's sequential approach to the selection of sites has been consistent with national planning policy. The allocation is therefore justified, although for effectiveness, **MM112** makes it clear that development must be supported by a FRA to inform the layout and avoid areas at risk.
273. As submitted, the allocation boundary fills the gap between existing houses on Jubilee Road and is consistent with the prevailing pattern of development. The boundary is reasonable and justified. There are no soundness reasons to extend the boundary or modify the scale of housing proposed.
274. Land to the East of former Bisley Nursery (site WOR009) is adjacent to an existing public right of way. For effectiveness, **MM113** states that proposals provide improvements and connections to the existing network as required.

### **Smaller Villages and Hamlets**

#### *Land adjacent to Short Street, Chillenden – Policy SAP50*

275. For the reasons given above, we have already concluded that the Council's process and methodology for selecting sites was robust, and the reasons why some sites were discounted at Chillenden. Site SAP50 is bounded by Station Road to the north, Short Street to the east and by existing housing to the south and west. It is read as part of the main built-up area of the village, with open agricultural land beyond. The indicative capacity of 5 dwellings is proportionate to the size and scale of the village which is defined as a Smaller Village/Hamlet. Housing in this location will not be isolated and help contribute towards the vitality of the rural community.
276. Access to the site is intended to be taken from a new opening on Short Street. For effectiveness, and in the interests of the character and appearance of the area, this is made clear by **MM114** which also clarifies that any new openings should be kept to the minimum required. Given the small scale of development proposed, there is no evidence to suggest that any widening of the highway would be required, or that impacts on the highway network would be dangerous.
277. Despite falling within Flood Zone 1, the SFRA identifies that around 60% of the site is at risk from surface water flooding. Approximately 1% is categorised as 'high' risk, around 21% 'medium' risk and almost 27% at 'low' risk. This

correlates with representations from residents referring to the flooding issues caused by the topography and ground conditions, and evidence has been submitted which suggests that they will also limit the feasibility of any mitigation.

278. However, matters such as the precise layout, building design (including finished floor levels) and surface water attenuation and mitigation measures will be a matter for the detailed design stage. This may result in fewer than 5 dwellings being achieved, or other design solutions or types of houses being required. Given the size of the site and the limited scale of housing proposed, we are satisfied that there is a reasonable prospect of the surface water issues being satisfactorily resolved over the plan period. For effectiveness, **MM114** clarifies that a FRA should be carried out in accordance with Policy CC5 to inform the design and layout and the provision of sustainable drainage. When read as a whole, the Plan provides sufficient safeguards to ensure that development will not place new housing at risk or increase the risk of flooding elsewhere.

279. To the north-west of the site is the Grade II listed property referred to as 'The Grange'. The house is set within clearly defined grounds, demarcated by a large, mature boundary hedge which separates it from the allocation. Considering the size of the site and the land available, combined with the limited scale of development proposed, we are satisfied that a scheme can come forward that preserves the setting of the Grade II listed building. For the same reasons the final design should be capable of preserving or enhancing the character or appearance of the Chillenden Conservation Area. Because these factors will be important to the design and layout of any future scheme, for effectiveness they are included in Policy SAP50 by **MM114**.

*Prima Windows, Nonington - Policy SAP52*

280. Full planning permission has been granted for 27 dwellings on the site. Matters including the principle of residential development and impacts on designated heritage assets, the local highway network and the living conditions of residents have therefore been assessed and found to be acceptable. Based on the evidence provided, we find no reasons to disagree. However, the site boundary includes land which is unavailable for residential development. Based on the correct site area, the capacity is reduced to the approved number of 27 houses. **MM116**, **MM117** and **MM119** make the necessary changes for effectiveness.

281. The site is located within 1 kilometre of a priority species (turtle dove) habitat. For effectiveness, **MM118** and **MM119** also make necessary changes to paragraph 4.296 and criterion a) of Policy SAP52 to reflect this. For the same reason, **MM119** corrects a factual error relating to the approved site access.

*Land at Ringwould Alpines, Ringwould – Policy SAP53*

282. The Council and the AONB Unit agree that the allocation will not represent major development in the AONB. They also conclude that the site-specific requirements set out in the policy will effectively manage potential impacts on the AONB. We agree with these conclusions. However, **MM120** is needed for effectiveness to delete duplicate wording in Policy SAP53.

**Conclusion**

283. We conclude that the process of selecting residential site allocations was robust, and subject to the recommended main modifications, they are justified, effective and consistent with national planning policy.

**Issue 5 – Whether the policies and allocations in the Plan will be effective in ensuring that the housing requirement will be met, and whether there will be a five-year supply of deliverable housing sites on adoption**

**Total Housing Land Supply**

284. The housing requirement over the plan period is **10,998** dwellings. Based on the latest information set out in the Council's Matter 4 Hearing Statement, and Examination Documents ED27 and ED28, the projected housing land supply is **11,876** dwellings. This is derived from extant planning permissions at March 2023, Ash Neighbourhood Plan sites, allocations, and a windfall allowance. Based on the Council's assumptions around delivery, the Plan makes provision to ensure that the housing requirement will be met in full.

285. The total supply includes 1,005 dwellings remaining from the approved Phase 1 scheme at the Whitfield Urban Expansion. A further 2,200 houses are estimated to come forward across the other parcels over the plan period.

286. As discussed above, there remains uncertainty around the deliverability of Phase 1 until the issue relating to the Whitfield roundabout is resolved. However, the Council and the main developer for the site agree that the wider allocation remains viable and developable, even if no further funding is secured from the first phase. We have already concluded that should Phase 1 stop, there remains a realistic prospect that the remainder of the urban expansion can still deliver new housing.

287. An updated projection on timings and delivery has been provided in Examination Document ED44. It demonstrates how around 745 dwellings are expected from Areas D and F (which are subject to planning applications currently before the Council). It also provides a trajectory for the Persimmon

site which is based on a Statement of Common Ground between the Council and the developer<sup>25</sup>. The Statement includes reference to other schemes in the area which Persimmon Homes has delivered and provides the necessary confidence that the trajectory is realistic. The evidence also demonstrates how the roundabout upgrades have been factored into the trajectory alongside the phased delivery of housing.

288. Although further delays at Whitfield could occur, a significant amount of work has been carried out since adoption of the Core Strategy and development is actively underway, with further planning applications before the Council from different housebuilders and a commitment from Persimmon Homes to take forward the largest part of the allocation. The trajectory also includes a contingency of around 900 dwellings to allow for changing circumstances, and Policy SP4 includes a permissive windfall approach to new housing on the edge of higher order settlements. Even then, if Whitfield does not progress as expected, the Council can update the Plan. We are therefore satisfied that the Council has produced proportionate and satisfactory evidence to demonstrate that the Plan will be effective in meeting the housing requirement.
289. For effectiveness, and to bring the Plan up to date upon adoption, **MM6, MM8, MM27, MM54, MM62, MM95, MM117, MM177, MM178** and **MM181** make the necessary changes to the extant sources of supply, housing land supply projections and housing trajectory in the Plan.

### Five Year Housing Land Supply

290. Paragraph 74 of the Framework requires local planning authorities to identify a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement. The supply of specific deliverable sites should include a buffer of 5% to ensure choice and competition in the market for land, or 20% where there has been significant under delivery over the previous three years.
291. Based on the latest Housing Delivery Test results, a 5% buffer is currently applicable in Dover. Taking this into account the five-year housing requirement is **3,208** dwellings ( $611 \times 5 + 5\%$ ).
292. At the time of the examination hearing sessions, the most up-to-date information available was contained in Examination Documents ED27 and ED28 (dated October 2023), the Housing Topic Paper (dated March 2023) and the Council's Matter 4 Hearing Statement. The evidence provides a detailed breakdown of housing land supply for the period 2023-2028, with monitoring provided up to March 2023. Although the Plan will be adopted in 2024, using this information

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<sup>25</sup> Examination Document ED22

provides a consistent and robust basis to determine likely future supply. It was also the evidence available to participants at the hearing sessions.

293. To determine what constitutes a deliverable site the Council has used the definition in Annex 2 of the Framework. Regular contact has been maintained with site promoters and developers through 'site progress questionnaires'. Assessments are then carried out by Officers on a site-by-site basis to determine likely phasing and build-out rates. This includes reviewing proposals against historical averages across Dover over the past 10 years. A very cautious approach to large sites without detailed planning permission has been taken and only active sites are included in the five-year projections (for example, where applications for reserved matters have been submitted). Taking a cautious approach ensures that the Council's projections are robust. Only 323 dwellings are considered deliverable in the first five years on major sites with outline planning permission. A further 696 dwellings are discounted.
294. In summary, Examination Document ED27 identifies a five-year supply of **3,438** dwellings on 1 April 2023 (which equates to around 5.38 years' worth of supply). This includes planning permissions, a windfall allowance for years 4 and 5 and 75 dwellings from allocations in the existing development plan for the area. Including deliverable sources of supply from proposed allocations in the submitted Local Plan increases the figure to **4,054** dwellings (or around 6.32 years' worth of supply). For effectiveness, Table 3.2 and the relevant supporting text is updated by **MM6**. Together they demonstrate that there will be a five-year supply of deliverable housing sites on adoption of the Plan.

## Conclusion

295. We therefore conclude that the policies and allocations in the Plan will be effective in ensuring that the housing requirement will be met and that there will be a five-year supply of deliverable housing sites on adoption.

## Issue 6 – Whether the policies relating to the type and mix of housing are justified, effective and consistent with national planning policy

### Housing Type and Mix, Affordable Housing and Local Needs Housing – Policies H1, SP5 and H2

296. For developments of 10 dwellings or more, Policy H1 requires applicants to demonstrate how the type, tenure and size of housing reflects the Council's latest evidence of housing need. Demonstrating how a proposal meets Policy H1 may involve evidence beyond the SHMA, such as subsequent updates or relevant local housing need surveys, including assessments prepared as part of Neighbourhood Plans. For effectiveness this is made clear by **MM142**, with consequential changes to the supporting text required by **MM143**.

297. Policy H1 also requires proposals for older persons accommodation or specialist housing to demonstrate need and be in “suitable” locations. The first requirement is not justified as other forms of housing are not restricted in the same way. It is also ambiguous how need would be demonstrated, and the policy is ineffective. Likewise, the second requirement relating to location is ambiguous and ineffective, with a more appropriate response to require older persons housing to be in accessible locations. Both are rectified by **MM142**.
298. Affordable housing needs are established through the SHMA. It identifies a need for 167 affordable homes per year across the district. A breakdown between affordable/social rented and affordable home ownership is also provided. To reflect the evidence base and ensure that the Plan is justified, the relevant figures and sources of information are included in the Plan by **MM11**.
299. The Whole Plan Viability Study<sup>26</sup> assesses in detail relevant data on development costs and values across the district. An update note was provided prior to submission in August 2022<sup>27</sup>. In summary, the evidence finds that sales values in Dover town are significantly less than the surrounding areas and that viability is challenging. Policy SP5 therefore sets a zero affordable housing requirement on sites in Dover town. The policy is justified based on the evidence and will ensure that the viability and deliverability of housing in Dover town is not undermined by the policy requirements of the Plan. It is also positively prepared in seeking to promote the regeneration of challenging sites in some of the most deprived parts of Dover.
300. Elsewhere, the viability evidence breaks the district down into Lower, Medium and Higher value zones. In the Lower Value zones (adjacent to the Dover urban area and around Aylesham), the evidence suggests that affordable housing at 30% will be marginal but may still come forward. Elsewhere, a 30% affordable housing requirement is unlikely to undermine viability. Policy SP5 is therefore justified in setting a 30% requirement for all areas outside Dover town. However, for consistency with the definition of major development in Annex 2 of the Framework, **MM12** makes it clear that the policy applies to developments of 10 or more homes or sites of 0.5 hectares or greater.
301. The application of Policy SP5 does not mean that no affordable housing will be provided in Dover. Allocations around the town with good accessibility (such as Whitfield) are expected to deliver a significant number of new homes, including affordable housing. Contributions to affordable housing can also be directed to schemes in the town centre as wider regeneration initiatives.
302. In some cases, there may be circumstances where an off-site financial contribution towards affordable housing is more appropriate than on-site

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<sup>26</sup> Submission Document GEB08a

<sup>27</sup> Submission Document GEB08b

provision. To provide the necessary flexibility, and for effectiveness, **MM12** makes this clear through changes to Policy SP5. Consequential changes to the supporting text are also required by **MM11**.

303. As submitted, paragraph 3.91 states that Policy SP5 will apply to all proposals for housing in Use Class C3 and “most” specialist housing schemes in Use Class C2. However, the Council agrees that only the development of independent housing units will be subject to affordable housing policies. Because the type and level of care can vary significantly in older persons housing, this will have to be considered on a case-by-case basis. For effectiveness, **MM11** is therefore needed to clarify that affordable housing will be sought on *some* specialist housing schemes. Although applying the policy will require professional judgement, it is sufficiently clear enough to be effective.
304. Development aimed at meeting specific, rural housing needs is supported outside settlement boundaries by Policy H2 where local need is evidenced. The Framework also states that local planning authorities should consider allowing some market housing on rural exception sites where this would help to bring sites forward. This is not currently expressed in Policy H2, which is rectified by **MM144**. The change ensures consistency with national planning policy. For effectiveness **MM145** also clarifies that proposals must consider impacts on landscape character, provide a high standard of amenity, consider factors such as highway capacity and provide connections to sustainable modes of transport.

## Meeting the Needs of Gypsies and Travellers – Policies H3 and H4

### *Identified Needs and Allocated Sites*

305. A Gypsy and Traveller and Travelling Showperson Accommodation Assessment ('GTAA') was produced in 2018<sup>28</sup>. Based on the definition in the Planning Policy for Traveller Sites ('PPTS') in 2015, a need for 18 pitches was identified up to 2037. The GTAA also identified a cultural need for 30 pitches. Allowing for an estimated 6-pitch turnover during the same period, a residual requirement of 24 pitches (cultural definition) or 12 pitches (2015 PPTS) was calculated.
306. Updated need figures were produced in the Gypsy and Traveller Site Options Review, dated January 2020<sup>29</sup>. This work involved site visits and communication with the gypsy and traveller community regarding sites but did not involve a full re-survey to determine likely future needs. Instead, it applied an annualised figure to the remainder of the plan period up to 2040. It concluded on a residual pitch requirement of 26 pitches (cultural definition) or 16 pitches (2015 PPTS definition).

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<sup>28</sup> Submission Document HEB04

<sup>29</sup> Submission Document HEB05a



307. In December 2023, the definition in the PPTS was amended to include persons of nomadic life whatever their race or origin, including such persons who on grounds of their own or their family's or dependants' educational or health needs or old age have ceased to travel. The GTAA had already included this broader 'cultural' definition and the Council had adopted the higher figure in preparing the Plan. As a result, it remains consistent with current national planning policy. For effectiveness, references to the previous definition are no longer required and are deleted by **MM7**. For the same reasons the main modification also clarifies how the projected need for 26 pitches was calculated, as explained in Examination Documents ED12-12b, and updates information relating to the committed supply to ensure that the Plan is up to date on adoption.
308. In seeking to meet identified needs, the Gypsy and Traveller Potential Sites Assessment<sup>30</sup> and the HELAA looked at opportunities for additional pitches and/or the intensification or expansion of existing sites. This has led to the allocation of 3 sites for an additional 5 pitches in Policy H3. To be effective the position is made clear by **MM7**, **MM8**, **MM146** and **MM148**.
309. Land at Hay Hill is identified for intensification to provide 3 additional pitches. The site is close to local facilities in Eastry and is an existing site. Factors relating to the design and layout of any intensification can be dealt with through the planning application process. In principle, the allocation is justified.
310. Two additional pitches are also proposed at Short Lane, Alkham. Despite its location in the AONB, no objections have been raised by the Kent Downs AONB Unit. Due to the residential context of the area and the relationship of the site to existing houses, combined with its limited scale and existing boundary planting, we agree that additional pitches can be accommodated whilst conserving the landscape and scenic beauty of the area. Subject to a consideration of surface water at the planning application stage, the Council also confirms that the site can be developed without resulting in development in areas at risk of flooding. The site is therefore justified and sound.
311. Through a combination of planning permissions granted and sites allocated in Policy H3, the Council can identify land sufficient to meet the anticipated needs over the plan period (26 pitches). **MM7** and **MM148** clarify the position for effectiveness. The text also needs amending because as submitted, the Plan erroneously referred to a much higher figure. However, this does not mean that needs have been met all the way up to 2040. The GTAA is only a snapshot in time and the Council will need to consider whether it represents an appropriate assessment of needs as the plan period progresses.

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<sup>30</sup> Submission Document HEB05b

312. The original GTAA is also from 2018. As projected needs are largely derived from survey work and interviews the position could have changed. However, the Local Plan is a strategic document looking ahead over a plan period to 2040. It replaces the now out-dated Core Strategy and will provide a positive strategy for the area in seeking to meet wider housing needs. Furthermore, the Council has carried out a call for sites exercise and allocated land where appropriate. There is nothing to suggest that suitable alternative sites would be found by doing the exercise again. We are also mindful that the Plan will be subject to a review and update where necessary within five years of adoption. It is therefore not necessary to suspend and subsequently delay the examination to carry out additional survey work now at this moment in time.

### *Consideration of Windfall Sites*

313. Paragraphs 7.34 and 7.39 (as modified) recognise that planning applications will be submitted for new pitches where needs cannot be met through existing and/or allocated sites. In such cases, Policy H4 applies and supports proposals for windfall developments subject to meeting criteria a-o.

314. The first requirement states that applications will be supported where a proposal cannot be located on a family-owned site, located on a site allocated for intensification in the Plan or located on a vacant turnover site. However, the turnover sites are no longer vacant, and the requirement therefore fails to be justified or effective. It is modified by **MM148** and **MM149** which amend the policy and supporting text and require a consideration of vacant lawful sites instead. This is necessary in the interests of promoting sustainable patterns of development and ensuring that vacant sites are considered first, which may provide an appropriate location for intensification or expansion without seeking new standalone provision elsewhere.

315. Further modifications are needed to Policy H4 for effectiveness and consistency with national planning policy and are made by **MM149**, with consequential changes to the supporting text by **MM148**. They include the need for a safe and suitable access to the road network, with parking for all vehicles in accordance with other relevant policies in the Plan. In the interests of providing a good standard of living accommodation sites must also be compatible with neighbouring buildings and land uses, and provide adequate space, including areas for storage and amenity (such as play space for children). For sites in the AONB or Heritage Coast, proposals must conserve and enhance the scenic beauty of the area consistent with national planning policy. For the same reasons, and for effectiveness, proposals should recognise the intrinsic character and beauty of the countryside, protect landscape character (rather than avoiding significant visual harm), and preserve or enhance heritage assets. The changes also make it clear that buildings (such as day rooms) should be an appropriate scale and design and that high fences and walls will not be suitable for screening.

316. As submitted, criterion (j) states that proposals must not have an adverse impact on the living conditions of adjoining residents. This lacks sufficient detail to be effective and is deleted by **MM149**. Moreover, Policy PM2 applies to all proposals for residential development and includes greater detail on matters such as overlooking, noise and overshadowing.
317. Following changes to the definition in the PPTS, it is not justified for Policy H4 to require accommodation to be consistent with a nomadic lifestyle or provide areas specifically for the storage or maintenance of equipment. Both are deleted by **MM149**.
318. Finally, Policy H3 relates to the three allocated sites. Similar criteria to Policy H4 are included and are therefore modified in a consistent way for the same reasons by **MM147** and **MM146**.

### **Self-Build, Residential Extensions and Annexes and Homes in Multiple Occupation – Policies H5, H6 and H7**

319. The 2022/23 Annual Monitoring Report identified 7 households on the Council's Self and Custom Build Register. In the same year planning permissions for 6 plots were granted, contributing to a total supply of 12. Consequently, there is no requirement at this stage for the Council to allocate specific sites.
320. Policy H5 supports custom and self-build housing if it does not result in over-provision. However, in the absence of a clear indication as to what would constitute over-provision, this is not effective and could unduly restrict small developments coming forward in appropriate locations. It is deleted by **MM150**.
321. Policy H6 supports residential extensions and alterations. The requirement for proposals to avoid an adverse impact lacks sufficient precision to be effective. It is rectified by **MM151** which requires applicants to consider a wider range of issues in avoiding harm to the living conditions of neighbouring residents.
322. Finally, Policy H7 relates to Houses in Multiple Occupation. It is justified and sound and will apply to relevant development proposals.

### **Conclusion**

323. Subject to the recommended main modifications, we conclude that the policies relating to the type and mix of housing are justified, effective and consistent with national planning policy.

## **Issue 7 – Whether the strategy for economic growth, employment and tourism is justified, effective and consistent with national planning policy**

### **Economic Growth and Employment Land Requirement – Policy SP6**

324. The Dover Economic Development Needs Assessment Update ('EDNA')<sup>31</sup> looks at labour demand and past development rates to predict future requirements for employment land. Based on economic forecasts around 11 hectares of land would be required. Assessing past trends over a five-year period between 2015 and 2020 points to a need for around 31.1 hectares of land. The higher figure is included in Policy SP6 and forms the employment land requirement for the Plan. It is a justified requirement based on the evidence in the EDNA.
325. In meeting the need, around 11 hectares of land is available at Discovery Park, Sandwich. Roughly 4.25 hectares is allocated at the White Cliff Business Park Phase 2, around 26.5 hectares at Phase 3 and 14.3 hectares at Phase 4. Smaller allocations are made at Dover Waterfront (1 hectare), the Aylesham Development Area (2.1 hectares) and at Statenborough Farm (0.6 hectares). In total, the Plan identifies approximately 59 hectares of land for employment purposes, compared with a need for 31.1 hectares. For effectiveness, this is clarified by **MM13**. It also explains the amount of employment floorspace which has planning permission. Allocating around 59 hectares of land is justified in seeking to plan positively for the area and provide a buffer for flexibility.
326. The total Discovery Park site extends to approximately 80 hectares, with around 11 hectares of cleared development land remaining. This area (predominantly the remaining parcels in the northern part of the site) already benefits from planning permission and is part of a designated Life Sciences Opportunity Zone. There is nothing to suggest that the site cannot deliver employment over the plan period. Because the site is a designated Opportunity Zone, with an approved planning permission and masterplan, it does not have an allocation in the same way as the other employment sites. The position is clarified by **MM14** and **MM61** for effectiveness.
327. The White Cliffs Business Park is split into zones but is shown as a single site on the policies map. For effectiveness, this is made clear by **MM14**.
328. Part of Phase 3 had been identified by the Department for Transport as a site for an Inland Border Facility. In 2022 it was announced that the facility was no longer required. It currently remains unclear what the Government's intentions are for the 26.5-hectare site.

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<sup>31</sup> Submission Document EEB01

329. However, this does not mean that the site is undevelopable for employment uses. It remains part of a larger site where Phase 1 has already come forward for industrial development, with similar uses granted planning permission on part of Phase 2. It is located close to the Dover urban area with good access onto the A2 and A256 and is appropriate for employment generating uses. Phase 4 can be accessed from the existing road adjacent to the Dover Leisure Centre, through part of Phase 2, and from the new Dover Fastrack route.
330. Should the site stall or come forward for alternative uses, then the Council will have an opportunity to review and update the Plan as required. There is also sufficient flexibility in the Plan which allocates more land than is required. Other sites also have the potential to come forward during the plan period, such as the former Snowdown Colliery and Dover Western Heights (Heritage Regeneration Opportunity Sites). The current uncertainty surrounding Phase 3 does not, therefore, justify modifying the Plan to find more employment sites at the present time.
331. In summary therefore, we are satisfied that the Plan makes adequate provision to ensure that the employment needs of the area will be met, with sufficient flexibility for changing circumstances. For effectiveness and clarity to users of the Plan, **MM14** states that development within Use Classes E(g)i-iii, B2 and B8 will be permitted on the allocated sites. Along with **MM13**, **MM26**, **MM53**, **MM61**, **MM71**, **MM80**, it also makes the necessary distinction between allocated sites, Discovery Park, and Heritage Regeneration Opportunity Sites. The latter are sites where the Plan supports the redevelopment and reuse of locally important, brownfield sites, but where uncertainty remains over their deliverability. The changes provide clarity and are needed for effectiveness.
332. As consulted on, **MM13** did not correct an error in paragraph 3.105 of the Plan which erroneously refers to the plan period as 18 years, when it is 20 years. We have therefore corrected this error in the schedule in the Appendix.

## **Employment Allocations – Policies SAP2, SAP5, SAP25 and SAP31**

### *White Cliffs Business Park – Policy SAP2*

333. Policy SAP2 allows for offices, light industrial uses, general industrial, storage and distribution and “*other employment uses which do not form part of the use classes order.*” The reason for this is to provide flexibility and is appropriate given the context of the area. For the same reasons, specifying ancillary retail uses is also justified, with specific reference to trade counters.
334. In error, reference to research and development uses was omitted from Policy SAP2 (a use falling within Class E). This is rectified by **MM31** for effectiveness, which also specifies the quantum of floorspace permitted across the site and the

specific use classes. For the same reasons of effectiveness, **MM30** makes consequential changes to the supporting text and provides additional context for the site.

335. The topography of the area rises from south to north, with Phase 4 on the crest of steeper slopes. Although the site has a commercial context along the A2, residential properties are situated to the south. In the interests of landscape character and the living conditions of local residents, policy criteria around landscape buffers, building heights and the distribution of uses across the parcels are appropriate and justified. We are satisfied that the criteria will be sufficient to guide development and avoid any harmful impacts occurring.

#### *Fort Burgoyne – Policy SAP5*

336. Fort Burgoyne, built in the 1860s to protect Dover Castle, is a scheduled monument. The 10-hectare site contains several constraints, including an area of designated open space, the contribution that it makes to the setting of Fort Burgoyne and the proximity of the Kent Downs AONB.

337. The historic context and constraints of the site are similar to the Dover Western Heights. However, further progress on this site has been made and development has taken place to reuse parts of the existing structures. The situation is therefore materially different to Dover Western Heights and allocation for a mix of uses is justified. For effectiveness, **MM37** is needed to clarify what the site is allocated for, with consequential changes and further context to the supporting text by **MM36**. The ambiguous requirement to “*enhance the economic well-being of Dover*” is also deleted.

338. Finally, to ensure that the Plan is justified and effective, **MM13** and **MM14** are required to clarify that the site is a mixed-use allocation, and not an employment site which contributes to the overall employment land requirement.

#### *Aylesham Development Area – Policy SAP25*

339. The Aylesham Development Area is a standalone allocation separate from the urban expansion to the west (Policy SAP24). For effectiveness this is clarified by **MM73**, whilst the indicative scale of development is set out by **MM75**.

340. Criterion a) requires a LVIA. However, the site is surrounded by existing and proposed development and forms part of a wider employment area. The requirement is not justified and is deleted by **MM75**. Sufficient safeguards exist within Policy SAP25 to consider appropriate boundary treatment and landscape.

*Snowdown Colliery – Policy SAP26*

341. The Snowdown Colliery has been disused since its closure in 1987. Although the Plan is positively prepared in allocating the site, it is heavily constrained by its former industrial use, the need to consider heritage assets on the site and issues relating to biodiversity. There is also no evidence to support any main town centre uses in this location, no information to demonstrate that the site is viable, and the Council confirms that the site is not needed to meet employment needs. As submitted, the allocation is therefore not justified.

342. However, like the Dover Western Heights, the site is a key regeneration priority for the Council and its reuse and redevelopment should be encouraged. Rather than delete the allocation, **MM14**, **MM71**, **MM76** and **MM77** therefore identify the former colliery as a Heritage Regeneration Opportunity Site. Several of the policy requirements remain relevant and are amended for effectiveness, such as the need for landscape and heritage appraisals, buffer zones around existing woodland and opportunities for biodiversity enhancement. Given the scale and context of the site, and in the absence of any detail on end uses, a masterplan is also necessary which should be prepared in consultation with key stakeholders including the Council. For effectiveness this is included in **MM77**.

*Statenborough Farm, Eastry – Policy SAP31*

343. For Policy SAP31 to be effective, the indicative scale of development should be included in the Plan. This is rectified by **MM86**. The policy also states that the existing buildings must be used, but there are no reasons for this restriction and some appropriate new development could also achieve the same outcomes. The necessary changes are made by **MM86**, with consequential changes to the supporting text by **MM85**.

**New and Existing Employment Development – Policies E1, E2, E3 and E4**

344. Policy E1 supports new employment proposals within, and adjacent to, designated settlements in the same way as residential development. In doing so the Plan is positively prepared in seeking to meet the needs of existing and new businesses. New employment opportunities are also supported in the countryside, consistent with paragraph 84 of the Framework.

345. However, it is also important that windfall proposals do not undermine the deliverability of key employment areas such as Discovery Park and the White Cliffs Business Park which are fundamental to the area's employment strategy. An additional criterion is therefore added by **MM153** to make the Plan justified and effective, with additional supporting text provided by **MM152**. For the same reasons, **MM153** includes detail on how to consider impacts on living conditions.

346. Policy E2 also seeks to protect existing land and buildings for employment uses. A list of sites (in addition to the strategic sites in Policy SP6) is provided in Table 8.1. These are all existing and established industrial areas where the principle of their retention for employment is justified. However, as submitted, it is unclear that Policy E2 relates to this list. It is rectified by **MM154** for effectiveness. For the same reasons, **MM26**, **MM53**, **MM61**, **MM71** and **MM80** are needed to show the areas on the various inset plans. Upon adoption the Council will need to update the policies map as required to ensure that the retained sites are clearly visible to users of the Plan.

347. **MM154** also clarifies that Policy E2 applies to land and buildings currently or last used for employment purposes, therefore including situations where occupiers have vacated premises. The change makes the policy effective.

348. Policy E3 relates to businesses operating from residential properties. The requirement to demonstrate that no material change of use has occurred is unjustified and ineffective, because if that was the case, planning permission would not be needed. If planning permission was needed for a business to operate from home, then the requirements to consider local character, traffic impacts and amenity are reasonable and justified. The necessary changes are made by **MM155**.

349. Serviced visitor accommodation (such as hotels and B&Bs) is supported within and adjacent to settlement boundaries by Policy E4. However, paragraph 84 of the Framework also seeks to support sustainable rural tourism. For consistency with national planning policy, and for greater flexibility and effectiveness, **MM157** therefore allows for the reuse and redevelopment of existing land and buildings or as part of the development of an existing tourism facility in rural areas. Consequential changes to the supporting text are required by **MM156** and seek to clarify how the Council will achieve sustainable tourism.

350. The retention of existing tourist accommodation is encouraged by the Council given the importance of tourism to the local area and the economy. However, considering whether sites are well located and attractive to the market is too ambiguous and greater clarity is needed for the policy to be effective. **MM157** makes the necessary changes. Greater detail on what is expected of applications for planning permission is provided in the supporting text. As modified, the expectations are sufficiently clear, and the policy is sound.

#### **Retail and Town Centres – Policies SP7, SP8, SP9, SP10, R1, R2, R3 and R4**

351. Policy SP7 states that new town centre development should be focussed within Dover, Deal and Sandwich and support the Council's retail and town centre strategy. The strategy has several objectives including seeking to reduce town centre boundaries and consolidate Primary Shopping Areas. However, it is



unclear how a development proposal would contribute towards the objectives of boundary alterations. Moreover, the Retail and Town Centre/Leisure Needs Assessments<sup>32</sup> did not suggest a reduction of the town centre boundaries, but a more nuanced approach to reflect changing retail habits. The outcome was that that some areas were added to the town centres with others being removed. To make Policy SP7 justified and effective the position is clarified by **MM15**.

352. For effectiveness **MM15** also makes a necessary change to objective 7 of the Council's strategy for retail and town centres by making it explicitly clear that any investment in town centres should reflect their heritage.

353. Policy SP8 supports development that helps deliver the regeneration of Dover town centre. Opportunity areas are identified to provide mixed-use development and contribute to the vibrancy of the town centre by enhancing the retail and leisure offer, supporting the local economy, promoting tourism, and providing residential accommodation. This represents a positive and pragmatic approach to the growth and management of Dover.

354. Policy SP9 supports development which enhances the vitality and viability of Deal town centre, with a similar approach in Policy SP10 for Sandwich. Both policies demonstrate a positive and flexible approach to the delivery of new development within the town centres to maintain their viability and vitality.

355. Policies R1-R4 identify retail boundaries, reflect the need for sequential and impact tests in accordance with national planning policy, seek to protect local shops and ensure high-quality design. The policies are sound.

## **Conclusion**

356. Subject to the recommended main modifications we conclude that the strategy for economic growth, employment and tourism is justified, effective and consistent with national planning policy.

## **Issue 8 – Whether the strategy and policies relating to transport and infrastructure provision are justified, effective and consistent with national planning policy**

### **Strategic Transport Infrastructure - Policy SP12**

357. Two Statements of Common Ground on strategic highway matters have been agreed. One between Dover District Council, Canterbury City Council, Swale Borough Council, KCC and National Highways. The other is between Dover

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<sup>32</sup> Submission Documents EEB04a and EEB04e

District Council, KCC and National Highways<sup>33</sup>. They outline the methodology used to model the impacts of Local Plan growth on the strategic highway network. In summary, the highways modelling found that growth will detrimentally affect the A2 junctions at the Whitfield and Duke of York roundabouts. Congestion at these junctions is already causing rat-running on alternative routes on the local highway network. To support Local Plan growth, mitigation at the roundabouts will therefore be required. Policy SP12 is justified in listing both locations for strategic highways improvements.

358. The latest iteration of the IDP provides further context and information on what is required at both junctions. For the Whitfield roundabout, mitigation has been agreed between KCC and National Highways and broadly consists of a three-lane circulatory arrangement, signalised arms and priority junctions, additional flare lanes and an extension of the existing underpass. At the Duke of York roundabout, the mitigation is expected to include additional lanes and traffic lights. The improvements are predicted to cost around £6.3m for the Whitfield roundabout and approximately £5.7m for the Duke of York roundabout.
359. Further information on expected funding and delivery is provided in the October 2023 Technical Note. In summary, it is proposed that the Whitfield Urban Expansion principally funds the Whitfield roundabout whilst a proportionate, zonal approach is taken to securing funds for the Duke of York roundabout.
360. As submitted, Policy SP12 states that proportionate developer contributions will be sought from new development to support the strategic schemes. Because the IDP is relevant and provides further detail on the type of infrastructure needed to support the Plan, it should be referred to in the policy so that users of the Plan are aware what is expected in their area. This is needed to make Policy SP12 effective and sound. However, the IDP is not a development plan document and is intended to sit alongside the Plan. The Council intends to regularly review and update the IDP to reflect changes that might be required. For this reason, **MM17** requires development proposals to have regard to the IDP or any subsequent guidance, not conformity with it. Consequential changes to the supporting text are made by **MM16**, which are also needed for effectiveness.
361. We have already concluded that, where financial contributions are concerned, listing the precise figure required from individual allocations or land parcels is not appropriate or necessary for soundness. This is because the Plan intends to set out an overarching policy framework, identifying what infrastructure is required, whilst also providing sufficient flexibility to respond to changing circumstances and be effective. The precise level of financial contribution will be for the masterplanning and planning application processes to determine at

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<sup>33</sup> Submission Documents GEB06 and GEB07

the appropriate stage, which should be informed by the IDP and led by the strategic requirements of Policy SP12.

362. The PPG<sup>34</sup> advises that where plans are delivering longer term growth (for example through significant extensions to existing towns), strategic policy-making authorities will be expected to demonstrate that there is a reasonable prospect that the proposals can be developed within the timescales envisaged. This is precisely what the Council has done. It has worked collaboratively with KCC and National Highways and identified strategic highway improvements. It has then demonstrated that there is a reasonable prospect that the works can be carried out and that the costs will not undermine the deliverability of the Plan.
363. Two further strategic highway improvements are identified in Policy SP12 at the A257/A256 Ash Road junction and at the A258/A256 Deal Road junction. The Ash Road junction improvements are needed due to the cumulative growth from allocations in the Plan, with all the sites in Sandwich, and Policies SAP1 and SAP2, considered likely to impact on the junction. Proposals had included enlarging the roundabout and the entry/exit lane lengths to create additional capacity. However, KCC agree that a further transport assessment may enable a smaller scheme to come forward. Identifying the junction in Policy SP12 is therefore justified but emphasises the importance of ensuring sufficient flexibility in the Plan to allow for details to be agreed as development proposals progress.
364. Further information in relation to the Deal Road junction is provided in Submission Document TIEB03. The evidence has been available throughout the examination and was discussed at the hearings. It convincingly shows that the Plan does not lead to a requirement for the junction to be upgraded. This position is agreed by KCC in a further Statement of Common Ground with the Council, dated November 2023<sup>35</sup>, which identifies the junction improvements as 'desirable' rather than critical. To reflect the evidence, **MM2**, **MM16** and **MM17** are therefore needed to delete the A258/A256 junction from Policy SP12 and the supporting text and Figure 2.1 which is in the Plan.

### Local Transport Infrastructure

365. The Regulation 19 Transport Modelling Forecasting Reports predict traffic flows from the growth proposed in the Plan and identify potential issues on the highway network. Where issues have been identified, junctions were assessed in more detail. Some junctions outside the modelled area were also assessed. The modelling was agreed with KCC and where mitigation is necessary, the position is set out in the latest Statement of Common Ground<sup>36</sup>. Subject to providing the necessary mitigation, we are satisfied that any significant impacts

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<sup>34</sup> Paragraph: 059 Reference ID: 61-059-20190315

<sup>35</sup> Examination Document ED31

<sup>36</sup> Examination Document ED31

on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree as required by paragraph 110 of the Framework. There is no persuasive evidence to suggest that the residual cumulative impacts on the road network would be severe.

### **Sustainable Transport and Travel – Policies TI1-TI3**

366. As submitted, Policy TI1 requires development to accord with 'the Parking Standards' but fails to set out what they are. For effectiveness, **MM159** refers to the guidance contained within the Parking Standards for Kent SPD and the Kent Design Guide Review. Because both are guidance documents and do not form part of the development plan, the policy needs to require proposals to have regard to them only. Similar changes are needed to Policy TI3 by **MM161** and **MM162** which, for effectiveness, also clarifies that development must provide adequate levels of parking having regard to the type of proposal and its location.

367. For the same reasons of effectiveness, and to promote sustainable modes of transport consistent with national planning policy, **MM158** and **MM160** require a consideration of infrastructure in the IDP, safeguarding of the public right of way network and provide further detail on transport statements and travel plans.

### **Overnight Lorry Parking Facilities – Policy TI4**

368. Policy TI4 states that proposals for overnight lorry parking facilities must not be in the AONB. This is inconsistent with national planning policy found in paragraph 177 of the Framework. It states that permission should be refused for major development in the AONB other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The necessary modification is made by **MM163**. The changes also require proposals which affect the setting of the AONB to be sensitively located and to avoid or minimise adverse impacts, thus ensuring consistency with paragraph 176 of the Framework.

369. For greater flexibility and for effectiveness it is also necessary to modify criterion a) by requiring proposals to be located on or near the strategic highway network and have regard to any cumulative highways impacts (**MM163**).

### **Digital Technology – Policy TI5**

370. As submitted, Policy TI5 includes detailed requirements for digital technology. To provide greater flexibility, and for effectiveness, **MM164** and **MM165** simplify the requirement for new homes to have gigabit-capable connections or be high-speed ready with necessary infrastructure in place. **MM164** also makes sure that the Plan is up to date on adoption by referring to the latest standards.

## **Infrastructure and Developer Contributions – Policy SP11**

371. Policy SP11 is justified in its requirement for development to provide new (or make contributions towards existing) infrastructure where necessary. The Whole Plan Viability Assessment includes tolerances for cost assumptions and shows that development will be viable. Where costs will affect viability, such as the provision of affordable housing in Dover, the relevant policies reflect this.
372. There may be exceptional cases where alternative arrangements may be more appropriate than providing infrastructure on site and would bring about wider public benefits. The flexibility provided by Policy SP11 is therefore justified and is made clear through the supporting text that this will only be considered in exceptional cases on a site-by-site basis. Overall, the Plan provides a sufficiently robust framework to ensure that the right infrastructure is delivered where needed to support new development.

## **Conclusion**

373. Subject to the recommended main modifications we conclude that the strategy and policies relating to transport and infrastructure provision are justified, effective and consistent with national planning policy.

## **Issue 9 – Whether the place-making policies, including Open Space and Local Green Space designations are justified, effective and consistent with national planning policy**

### **Achieving High Quality Design – Policies SP2, PM1, PM2 and PM3**

374. Policy PM1 is an overarching policy aimed at securing high quality design, consistent with paragraph 126 of the Framework. Not every criterion will be relevant to every proposal under consideration. To make the policy effective this is clarified by **MM136**.
375. Where the character of an area is concerned, important views are important to the understanding of a development's context. This includes both historic and architectural character. Considering impacts from external lighting is also relevant, from impacts on landscape character, to the living conditions of neighbouring residents and wildlife. The changes are recommended by **MM136**, which is needed for effectiveness. It also corrects an error by referring to swift bricks as an example of measures to support local wildlife and gives examples of how to promote sustainable modes of transport to be effective. Further guidance is provided in the supporting text by **MM135** for effectiveness.

376. The policy refers to a typical density of between 30 and 50 dwellings per hectare. This is not a mandatory target, and the policy requires an 'appropriate' density that considers factors such as local character. It is justified and sound.
377. To ensure consistency with paragraph 92 of the Framework, **MM135** encourages applicants to have regard to active design. For the same reasons, **MM5** is needed to include references to the importance of health and social care and minimising the fear of crime in Policy SP2.
378. Policy PM2 provides greater detail on the quality of residential development expected. Modifications are made to criterion a) by **MM138** for effectiveness, stating that developments must be compatible with neighbouring buildings and land uses. Consequential changes to the supporting text are made by **MM137**.
379. The SHMA Partial Update<sup>37</sup> assesses health data to determine likely needs for lifetime homes and wheelchair standard accommodation. In summary, it is predicted that there will be a need for between 9,813 and 10,878 dwellings built to lifetime homes standard in Dover. The assessment justifies the inclusion of Policy PM2(d) which requires all housing to meet Building Regulations M4(2) standards (accessible and adaptable dwellings). The standards have been included in the Whole Plan Viability Study and tested accordingly.
380. Policy PM2(d) also requires 5% of dwellings on schemes of 20 dwellings or more to comply with Building Regulations M4(3) standards. The justification for the requirement is found in the SHMA and the Council's Matter 9 Hearing Statement. Based on the evidence provided the requirement is proportionate and justified. It is supported by the Whole Plan Viability Study. However, for effectiveness, **MM137** and **MM138** refer to wheelchair user dwellings, thus ensuring consistency with terminology used in the PPG and the Building Regulations. The supporting text clarifies that wheelchair accessible homes only apply where the local authority is responsible for allocating or nominating a person to live in that dwelling, consistent with the PPG<sup>38</sup>.
381. In some circumstances, site-specific factors may prevent proposals from meeting the higher optional technical standards. This is reflected in the PPG which states that Local Plan policies should take these factors into account, especially where step-free access is not viable. For consistency with the PPG and for effectiveness, **MM138** introduces this requirement into Policy PM2.

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<sup>37</sup> Submission Document HEB01c

<sup>38</sup> Paragraph: 009 Reference ID: 56-009-20150327

## **Open Space, Sports Provision and Local Green Space – Policies PM3, PM4 and PM5**

382. No main modifications are required to Policy PM3, which is justified and effective in requiring the provision of open space as part of major new housing developments. The requirement for a governance strategy is also justified to establish what facilities will be provided, when, where and by whom. The precise details will be for the development management process to control, especially where outline planning applications are submitted and specific information about management practices are yet to be established.
383. For indoor sports, the Indoor Sports Facilities Strategy provides an audit and assessment of indoor sports facilities and was produced using Sport England guidance and in consultation with local providers and users. For outdoor sports, the 2019 Playing Pitch Strategy provides a strategic framework to ensure that community needs are met. Both documents informed the IDP.
384. The Playing Pitch Strategy is from 2019 and both the Council and Sport England agree that an update is now required. Work on the update is expected to commence in 2024. However, rather than postpone adoption of the Plan, we agree with both parties that the update can be carried out to take account of any changes following adoption. This reflects the nature of the assessment where circumstances can change frequently. Any updates that are required would then be fed into future iterations of the IDP. For clarity and effectiveness, the situation is made clear to users of the Plan by **MM139**.
385. The Open Space and Sports Topic Paper<sup>39</sup> includes a review of protected open spaces and reference to the evidence supporting their designation. Some open spaces are identified for the contribution that they make to the character and appearance of an area. An example includes site 393, land off Mill Lane, Eastry. We recognise that the owners have put extensive efforts into the maintenance of the site, which is also one of the lowest 'ranked' sites. But their aspirations and cited need for a dwelling in this location does not make the plan unreasonable. Based on the evidence provided and observations at our site visits, there is nothing to suggest that the Council's judgement concerning the contribution that the open space makes to the character of the area is unsound. In dismissing an appeal for a dwelling on the site in 2010 (Appeal Ref APP/X2220/A/10/2120746) a previous Inspector also referred to the contribution that it makes to the "visual amenity of the area". The designation is therefore justified and sound.
386. Site 280 (land at Newlands) was carried forward and designated in the submission Plan due to the contribution that it makes to the availability of accessible natural greenspace. The primary purpose of these areas is for

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<sup>39</sup> Submission Document PMEB01

wildlife conservation, biodiversity and environmental education and awareness. Following submission of the Plan, the Council has granted reserved matters approval for the construction of 28 dwellings on the site. However, whilst a material consideration, the approval of planning permission does not render the allocation unsound. This is because the scheme may fail to come forward or revisions to it may be sought. For that reason, the Council has only removed designations where developments have taken place. If the situation at Newlands was to change and the site was built out, then it would be open to the Council to update the Plan as required in future revisions. Similar conclusions apply in respect of other sites where the evidence supporting the Plan justifies their designation as open space, but it would be for the Council to update the Plan as and when developments are completed.

387. The protection of open space and sport and recreation facilities is covered by Policy PM5. As submitted, the policy is not consistent with paragraph 99 of the Framework. It allows for the provision of alternative sports and recreation facilities provided they clearly outweigh the loss of the current or former use. This is rectified by **MM140**. For effectiveness it is also necessary to include reference to sports fields and clarify that the policy applies to open spaces and sports provision regardless of whether they are within a settlement (**MM140**). The policy protection would, for example, be afforded to existing facilities such as Betteshanger Country Park.
388. Proposed Local Green Spaces have been assessed in Submission Document PME01 which is consistent with the criteria for designation in paragraph 102 of the Framework. This inevitably involves some professional judgement, however, based on the evidence provided we are satisfied that the conclusions reached are reasonable and the designations justified. Where the development of Local Green Space is concerned, Policy PM5 refers to the Framework and relevant tests therein. This is justified and there is no need to repeat national planning policy in the Local Plan.

### **Community Facilities and Services – Policy PM6**

389. All major development proposals will be expected to contribute towards the provision of new, or enhancement of existing, community facilities and services. In doing so, Policy PM6 is consistent with paragraphs 20 and 28 of the Framework which require policies to set out a strategy for community facilities. However, for effectiveness, **MM141** recognises the importance of community facilities, including the shared use of facilities. Any loss of community facilities would have to meet the tests in Policy PM6.
390. For effectiveness, **MM141** also sought to clarify what is meant by 'rural' settlements. However, as consulted upon, it erroneously included reference to the District Centre at Deal, rather than the Rural Service Centres. This error is rectified in the schedule of main modifications in the Appendix to this Report.



## Conclusion

391. We therefore conclude that subject to the recommended main modifications the place-making policies, including open space and local green space designations are justified, effective and consistent with national planning policy.

## **Issue 10 – Whether the policies relating to the natural and historic environment, including policies relating to climate change, are justified, effective and consistent with national planning policy**

### **The Natural Environment – Policies SP13, SP14, NE1, NE2, NE3, NE4, NE5 and NE6**

#### *Designated Sites*

392. As identified above in the legal compliance section of this Report, the requirements for wintering bird surveys need to be modified to ensure that the Plan is justified and effective. The corresponding changes to Policy SP13 are made by **MM18** and **MM19** and ensure that the policy is justified and effective. For effectiveness, the same main modification clarifies that where developments are within 500m of the Thanet Coast and Sandwich Bay SPA and Ramsar site, the need for a project level HRA will be assessed on a case-by-case basis and that all developments must adhere to a Construction Environmental Management Plan.

393. In the interests of effectiveness, **MM19** is also needed to clarify and expand upon the list of locally designated environmental sites, and to confirm that mitigation measures should have regard to local strategies, rather than requiring compliance with non-development plan documents. Rather than seek to repeat national planning policy, for effectiveness **MM19** simplifies the policy by reference to the mitigation hierarchy in the Framework. Consequential changes to the supporting text are necessary and are made by **MM18**.

394. To mitigate against the impact of increased recreational pressure, a Strategic Access, Mitigation and Monitoring Strategy is in place for The Thanet Coast and Sandwich Bay SPA. In summary, this includes continued monitoring, provision of an Officer post to undertake local engagement and additional signage and information. The strategy is funded by financial contributions within the 9km zone of influence as set out in Policy NE3. To bring the Plan up to date on adoption, **MM170** updates the relevant costs in Table 11.2. The costs are not so significant to warrant a re-appraisal of the Council's viability evidence. For effectiveness, **MM170** also clarifies when and where contributions will be required, and that costs may change in the future as the amount is regularly reviewed by the Council.

395. Where the Dover to Kingsdown Cliffs SAC is concerned, the HRA concludes that threats from walking and dog walking are adequately minimised by existing management practices. To remain an effective strategy, the Council intends to work with the National Trust (who owns and manages most of the site) to periodically review and update the visitor strategy. This commitment is included in the Plan by **MM18** for clarity and effectiveness.
396. **MM171** formed part of the consultation on the main modifications in error. No changes are proposed or necessary to the opening paragraph of Policy NE3. As such, **MM171** is not recommended in the schedule appended to this Report.

### *Green Infrastructure*

397. Policy SP14 seeks to conserve and enhance the green infrastructure and biodiversity network across Dover, consistent with paragraph 175 of the Framework. However, the Plan is not effective, proportionate, or justified in requiring every planning application to connect to green infrastructure. The necessary caveat is therefore provided by **MM21**, which for effectiveness also refers to priority habitats and species and clarifies that the Local Nature Recovery Strategy includes priorities, not targets. Consequential changes to the supporting text are made by **MM20**.
398. The requirement for a minimum 10% biodiversity net gain in Policy NE1 is justified and consistent with paragraphs 174 and 179 of the Framework. However, the requirement to accord with an unpublished SPD is not. It is therefore deleted by **MM167**.
399. Several other changes are necessary to Policy NE1 for effectiveness reasons. They are made by **MM167** and include a presumption in favour of net gain on-site, considering local green infrastructure priorities, in addition to further details on the process of calculating and demonstrating biodiversity net gain. As consulted upon, **MM167** also sets out a hierarchy where off-site provision is concerned. This places a priority on compensation within the local authority area (Dover District). We note that the Statutory Biodiversity Metric and associated User Guide refers to the Local Planning Authority boundary or National Character Area. Nevertheless, there are two National Character Areas in Dover District (the North Downs and the North Kent Plain). Both are substantial in coverage and stretch far beyond the Dover District boundary. Seeking to direct off-site improvements to the local area is therefore justified and appropriate in this case. However, to provide some further flexibility, we have inserted the caveat 'where possible' in the schedule of main modifications in the Appendix to this Report. This ensures that consideration is given to the local area in the first instance, but also recognises that net gain can be delivered across the National Character Areas.

400. For the biodiversity net gain strategy to be effective, a coherent ecological network is proposed across Dover. This is made clear by **MM1**.

401. For the reasons given above, main modifications are required to update references to the Kent Downs National Landscape. For effectiveness, **MM169** is also required to state that proposals should be limited in scale and extent where they affect the AONB. The change is needed to emphasise what is expected of proposals in and around the AONB and ensure consistency with national planning policy which states that major proposals in AONBs should only be allowed in exceptional circumstances.

### **The Historic Environment – Policies HE1, HE2, HE3, HE4 and SP15**

402. Paragraph 190 of the Framework requires Plans to set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay, or other threats. To be consistent with national planning policy, **MM176** therefore expands the text in Policy HE1, which as submitted only refers to buildings on the Heritage at Risk Register.

403. The requirement for relevant planning applications to be supported by a heritage statement is also consistent with national planning policy in paragraph 194 of the Framework. For effectiveness, **MM175** expands the supporting text to clarify what is required from applicants.

404. The remaining policies (HE2-HE4) meet the tests of soundness. This position is also confirmed by the Statement of Common Ground between the Council and Historic England<sup>40</sup>. Policy SP15 is also sound, apart from the supporting text, where **MM22** is needed to clarify what is meant by historic parks and gardens. The changes are made for effectiveness.

### **Climate Change – Policies SP1, CC1, CC2, CC3, CC4, CC5, CC6, CC7 and CC8**

405. Policy SP1 is an overarching policy which identifies how new developments are expected to contribute towards the mitigation of, and adaptation to, climate change. For the policy to be justified and effective, changes are needed to remove the requirement for climate change statements on all planning applications. This is unnecessary and disproportionate, especially for minor household extensions where the necessary detail could be included in other documents or drawings. The relevant changes are made by **MM3** and **MM4**. In the interests of effectiveness **MM3** also provides further information on how

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<sup>40</sup> Examination Document ED18

developments can meet the requirements and what will be expected from proposals.

406. Policy CC1 is concerned with reducing carbon emissions. As submitted, it requires new residential development to meet Future Homes Standards if they are delivered through the planning system (rather than through the Building Regulations). This is unsound because it seeks to pre-empt something that may, or may not, happen. If achieved through changes to the Building Regulations, then the policy would also be unnecessary. Moreover, the cost implications have not been tested through the Viability Assessment. The policy is therefore unjustified, ineffective, and modified by **MM123** and **MM124**. In the absence of any convincing or reasoned justification, the standards for non-residential developments are also deleted.
407. The modifications introduce more flexible requirements for development proposals to demonstrate how they have sought to maximise energy efficiency and minimise carbon emissions. Examples are included such as the use of good building fabric techniques and measures to reduce overheating. In the absence of any tested and justified local targets, this is appropriate and sound. It is consistent with national planning policy, which through paragraphs 154 and 157 of the Framework states that new development should be planned for in ways that help reduce greenhouse gas emissions and minimise energy consumption.
408. Requiring a Sustainable Design and Construction Statement for all planning applications under Policy CC2 is not justified or proportionate. It is therefore deleted by **MM126**. For the same reasons, Policy CC3 is modified by **MM127**. Both are validation checklist requirements, rather than setting measurable standards for new developments to meet in policy.
409. For effectiveness, **MM126** is also needed to specify that Policy CC2 applies to the construction of new buildings, and that the entire development should consider factors such as layout, orientation, and solar gain. This is because in some cases, especially on larger sites, it may not be possible for every single plot to achieve these objectives. Consequential changes to the supporting text are made by **MM125**.
410. Paragraph 155 of the Framework states that to increase the use and supply of renewable and low carbon energy, plans should provide a positive strategy for energy from these sources that maximises the potential for suitable development. Policy CC3 is consistent with this requirement, but modifications are needed for effectiveness to make it clear that the Council encourages the production, storage, and use of renewable energy, especially on previously developed land (**MM127**). Reference to planning application validation requirements are also deleted by **MM127**, in addition to clarifying that where

best and most versatile agricultural and is concerned, the policy seeks to avoid significant losses.

411. In some cases, proposals for renewable energy generation may have impacts on other infrastructure, such as military or aviation activities. However, as modified, Policy CC3 requires accordance with all other development plan policies. This includes Policy PM1, which in turn, requires all development to be compatible with neighbouring buildings and spaces, considering their purpose and function. The Local Plan therefore provides sufficient safeguards to avoid harmful conflicts with military or aviation infrastructure, which would be a material planning consideration in any relevant decision-making context. The policy is not unsound without specific reference to these issues.
412. Paragraph 155 of the Framework also states that plans should consider identifying suitable areas for renewable and low carbon energy sources (and supporting infrastructure) where this would help secure their development. This was considered by the Council in preparing the Plan. But the variety of constraints including the AONB, two Heritage Coasts, European designated sites and the landscape character of the White Cliffs meant that no such areas have been defined. This conclusion is reasonable and justified.
413. The whole of Dover District is in an area of serious water stress as defined by the Environment Agency. Requiring new housing to meet the higher optional technical standards for water efficiency is therefore justified. For effectiveness, **MM129** clarifies that for non-residential development, the relevant standards are equivalent to BREEAM 'very good'. Consequential changes to the supporting text are made by **MM128**.
414. Where flooding is concerned, Policy CC5 refers to the tests in the Framework. This is justified, rather than repeating national planning policy on the application of the sequential and exception tests in the Local Plan. As submitted, the policy requires development to accord with the Council's guidance for managing flood risk and the requirements in the Council's SFRA. However, neither document forms part of the development plan and could be subject to change at any time. Requiring accordance with external guidance, which is not subject to scrutiny through the examination process, is not justified. Similar requirements are also found in Policy CC6 in relation to surface water flooding, Policy CC8 concerning trees and Policy NE4 in relation to air quality assessments. The policies are modified by **MM130**, **MM131**, **MM134** and **MM173**. **MM172** also recognises the importance of air quality to habitats, which is needed for effectiveness.
415. We have carefully considered the objections raised by the Environment Agency and given their views considerable weight. However, for the reasons given above, the submitted policies fail the test of soundness. As modified, the policies would still require applicants to have regard to the Council's guidance,

and in the case of Policy CC6, accord with the hierarchy which is already listed in the Plan. The Plan therefore provides an appropriate policy framework against which inappropriate, harmful, or unsafe forms of development could be resisted. For effectiveness, **MM130** also clarifies that references to floor levels relate to development in Flood Zone 3.

416. Due to the vulnerability of some parts of the district to the effects of climate change, Coastal Change Management Areas are defined. Within these areas, Policy CC7 restricts certain forms of development. The approach is justified, sound and consistent with paragraph 154 of the Framework which states that new development should avoid increased vulnerability to impacts arising from climate change. However, several changes are needed for the policy to be effective. These are made by **MM132** which makes it clear what will be expected and the types of development permitted in management areas. Consequential changes are made to the supporting text by **MM133**.

417. Where developments are not on mains drainage, wastewater treatment plants may be installed where they can meet certain standards of design. For effectiveness this is made clear by **MM174**, including what is expected of applications for planning permission to comply with Policy NE5.

## **Conclusion**

418. We therefore conclude that subject to the recommended main modifications the policies relating to the natural and historic environment, including policies relating to climate change, are justified, effective and consistent with national planning policy.

## **Overall Conclusion and Recommendation**

419. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

420. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix to this Report the Dover District Local Plan to 2040 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Matthew Birkinshaw and Clive Coyne*

INSPECTORS

This report is accompanied by an Appendix containing the Main Modifications.