



Lewes District Council

LEWES DISTRICT LOCAL PLAN PART 2

STATEMENT OF COMMON GROUND

Addressing the Environment Agency pre-submission representation

BETWEEN: Lewes District Council and the Environment Agency

DATE: 26th March 2019

This statement has been prepared to assist the Examination in Public by setting out the areas of common ground and resolution in respect of the representation made by the Environment Agency dated 5 November 2019.

Introduction

1. The Environment Agency (EA) made representations on the Lewes Local Plan Part 2 (LPP2) Pre-submission consultation in October 2018. A number of these comments have been addressed through the submitted Schedule of Minor Modifications (CD012) and further elements have been agreed that will form part of a revised Schedule of Minor Modifications. The Schedule of Minor Modifications will be added to throughout the examination as other minor modifications are identified.

Purpose of this Statement of Common Ground

2. This Statement sets out the position of the EA and Lewes District Council (LDC) with regards to the representation submitted, to aid the Inspector's understanding and to identify where there is agreement between both parties.

Background

3. The EA provided a number of comments at the Draft Consultation Plan (Regulation 18) stage, which were addressed in the Pre-submission LPP2 through the strengthening of criteria for the residential site allocations and the carrying out of the sequential test for one residential site allocation, which is presented in the Sustainability Appraisal (CD004).

4. Remaining issues have in part been addressed by the proposed amendments to the Schedule of Minor Modifications (CD012) including additional modifications to be added to the Schedule. The table below summarises the EA's comments on the Pre-submission LPP2 and provides LDC's response, identifying the proposed changes to the LPP2 and confirms whether the LDC action or further explanation addresses the EA's objections.

Areas of Common Ground

5. Table 1 provides the overview of common ground reached through the consultation process.

Table 1

EA issues raised in relation to consultation on Pre-submission LPP2	LDC Comments	Proposed Actions	EA agree objection addressed
<p><u>Policy NH02 Land at the Marina</u> Policy d) refers to inclusion of an appropriate standard of flood protection including safe access to the site. In accordance with NPPF para 163 and the Planning Practice Guidance Notes para 057, we recommend that safe egress from the site is also referred to in this policy.</p>	<p>Reference to egress added to the wrong criterion in the Schedule of Minor Modifications (M09).</p>	<p>Amend M09 to put 'egress' into criterion d):</p> <p>d) New development must include an appropriate standard of flood protection (including safe access to <u>and egress</u> from the site), and provision for future maintenance, to be agreed with the Environment Agency;</p>	<p>Agree</p>
<p><u>Policy NH02 Land at the Marina</u> Policy e) does not clearly explain the contaminated land investigation requirements for this site. The use of the term 'mitigation' does not represent the correct terminology for contaminated land and</p>	<p>Terminology was corrected from 'mitigation' to 'remediation' in the Schedule of Minor Modifications (M10)</p>	<p>Further minor modification proposed to add the additional wording (standard text) supplied by the EA to the supporting text:</p> <p>M10i)¹ insert new para 2.39 '<u>Development will be required to submit a desk study.</u></p>	<p>Agree</p>

¹ The numbers used here are for ease of reference to the current Schedule of Minor Modifications (CD012). The Schedule and the modification reference numbers will be subject to change in the final Schedule of Minor Modifications post the examination hearings.

<p>therefore may be misleading regarding the requirements for remediation</p>		<p><u>conceptual model, site investigation, risk assessment and Remedial Method Statement for contaminated land in line with best practice approaches and carried out by or under the direction of a suitably qualified competent person and in accordance with most recent guidance.</u>'</p>	
<p><u>Policy NH02 Land at the Marina</u> Policy g). The geographical boundary of the allocation shows encroachment onto the foreshore. There is therefore the potential for this allocation to cause adverse impact to inter-tidal habitats. We therefore suggest that the wording of this policy be strengthened to ensure compliance with para 170 d) (minimising impacts on and providing net gains for biodiversity) of the NPPF 2018.</p>	<p>Inclusion of suggested text to include like-for-like compensatory habitat has been included in the Schedule of Minor Modifications (M11).</p> <p>The justification for the strengthening of the policy wording beyond that in other residential site allocations is the presence of inter-tidal habitat and encroachment onto the foreshore within the site allocation boundary.</p>	<p>Further additional text to minor modification M11 is proposed to add the additional wording (standard text) supplied by the EA to the policy:</p> <p>g) An ecological impact assessment is undertaken and appropriate measures identified and implemented accordingly to mitigate potential adverse impacts on biodiversity. <u>There should be no net loss, and seek to provide a net gain to biodiversity, in particular to Habitats of Principal Importance (formerly known as BAP habitats).</u> Where impacts on biodiversity cannot be avoided or mitigated, like-</p>	<p>Agree</p>

		<p>for-like compensatory habitat at or close to the development site will be required. Development allows for the protection of biodiversity and enhancement where possible; and</p>	
<p><u>Policy NH02 Land at the Marina</u></p> <p>It is not clear whether this allocation would allow for additional berths (the previous planning application (LW/07/1475) did). If additional berths are to be provided at the site, they have the potential to impact on inter-tidal habitats and water quality. We therefore suggest that the wording of this policy be strengthened to ensure compliance with paras 170 d) (minimising impacts on and providing net gains for biodiversity) and 170 e) (preventing new and existing development from contributing tounacceptable levels of water pollution and and wherever possible should help</p>	<p>LDC agrees consideration should be given to the adequate management of waste and sewage arising from additional moorings.</p> <p>Like-for-like compensatory habitat included in the Schedule of Minor Modifications (M11).</p>	<p>Minor modification proposed to policy criterion b) and insert new paragraph as follows:</p> <p>M09i) amend criterion b) of Policy NH02 to read: b) No loss in the number of existing berths; <u>where there is a net increase in the number of berths, appropriate toilet and pump out facilities must be provided to manage waste and sewage arising.</u></p> <p>M09ii) insert new para 2.40 <u>'Where additional moorings are provided, consideration must be given to the management of additional waste and sewage arising. Appropriate services, such as toilets and pump out facilities, should be provided where appropriate to reduce the risk</u></p>	<p>Agree</p>

<p>to improve local environmental conditions such aswater quality) of the NPPF 2018.</p>		<p><u>to water quality from recreational boating. The size of the pump out facility should be appropriate to that of the development and agreed by the local authority prior to construction.'</u></p>	
<p><u>GT01 Land South of the Plough</u> There is no reference in the policy as to how wastewater will be disposed of. There is the potential for the allocation to have an adverse impact on water quality. We therefore suggest that the wording of this policy be strengthened to take account of para 170 e) (preventing new and existing development from contributing tounacceptable levels of water pollution and and wherever possible should help to improve local environmental conditions such aswater quality) of the NPPF 2018.</p>	<p>Agreed this is not consistent with the residential site allocations, which contain a criterion for sewerage connection.</p>	<p>Propose a new minor modification for clarity and consistency: New Mod²: add new criterion h) <u>The development will provide connection to the sewerage system at the nearest point of adequate capacity, as advised by Southern Water; if non-mains drainage an environmental permit will be required.</u></p>	<p>Agreed</p>
<p><u>E1 Land at East Quay, Newhaven Port</u></p>	<p>LDC agrees this is not consistent with sequential test being undertaken for NH02.</p>	<p>After further discussion with the EA it is agreed that the sequential test can be</p>	<p>Agreed</p>

² A new numbering system for the modifications will be provided once all minor modifications have been prepared following the examination hearings.

<p>Land at East Quay, Newhaven Port falls in Flood Zones 2 and 3 (an area of higher flood risk). In accordance with the NPPF 2018, we recommend the Sequential Test is undertaken when allocating sites to ensure development is directed to the areas of lowest flood risk. We cannot see evidence of this approach to date and we would have concerns if development is allocated in Flood Zones 2 and 3 without the Sequential Test being undertaken</p>	<p>The consideration given to the lack of sequential test include, essentially, the carrying forward of a 'saved 2003' policy, the land is owned by the port and is safeguarded for uses associated with the port operations, which cannot be re-provided elsewhere. This employment land is already committed through the saved policy and thus counts towards the overall employment provision identified by the Joint Core Strategy.</p>	<p>undertaken referencing the matters identified as to why other sites cannot provide for the port in the same way as E1. The sequential test will be undertaken and the SA/SEA updated accordingly.</p>	
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Signed

On behalf of Lewes District Council

A handwritten signature in black ink, appearing to read 'T. Thom'.

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(Tondra Thom, Planning Policy Manager)

On behalf of Environment Agency

A handwritten signature in blue ink, appearing to read 'M. Oxley'.

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(Marguerite Oxley, Sustainable Places Technical Specialist)