

Agenda Item No: 14
Report To: Cabinet
Date of Meeting: 13th September 2018
Report Title: Review of the Chilmington Green Area Action Plan
Report Author & Job Title: Daniel Carter, Principal Policy Planner, Planning and Development Service
Portfolio Holder for Planning and Development: Cllr. Clokie



Summary: The planning Regulations require Local Plans to be reviewed every five years following the date of adoption. The Chilmington Green Area Action Plan (AAP) is a Local Plan and was adopted in July 2013. A formal review of the AAP is therefore necessary to be consistent with the Regulations.

To determine whether any revisions are needed to the AAP, either in whole or in part, the Council have undertaken a review of the AAP policies to determine their consistency with the recently published National Planning Policy Framework (NPPF) (2018).

The review is divided into two parts. The first separates the elements of the NPPF that are not considered to be directly relevant to whether or not the policies in the AAP are out of date. The second audits the relevant sections of the NPPF and provides commentary as to which policies in the AAP are considered to be broadly consistent.

The review concludes that no revisions to the AAP are needed now and AAP is not 'out of date' with the NPPF.

Key Decision: YES

Significantly Affected Wards: Kingsnorth Parish, Shadoxhurst Parish, Great Chart and Singleton Parish

- Recommendations:** **The Cabinet is recommended to:-**
- I. Agree with the conclusion of the review that the policy framework in the Chilmington Green AAP remains broadly up to date with the policy approach of the NPPF,**
 - II. Agree that no revisions to the Chilmington Green AAP, in whole or in part, are required now,**
 - III. Agree that the Council shall undertake another formal review of the Chilmington Green AAP by September 2023.**

Policy Overview: The Chilmington Green Area Action Plan (AAP) forms part of the statutory development plan for the borough. Its principal role is to provide a policy framework to guide development within the area covered by the AAP.

An outline planning application has been approved for the development of Chilmington Green and the AAP was a crucial decision making tool used by the Council in the determination of the application. The AAP remains an important decision making tool, guiding detailed applications.

The AAP remains the most up to date part of the development plan in relation to the future development at Chilmington Green. The review provides the opportunity for the Council to audit the policies in the AAP and determine their broad consistency with the NPPF.

The review concludes that the policy framework of the AAP is broadly consistent with the NPPF and therefore full planning weight should still be applied.

Financial Implications: No financial implications for the Council as no formal revisions are triggered by this Review.

Legal Implications There are no direct legal implications of the review.

Equalities Impact Assessment See attached.

Other Material Implications: None.

Exempt from Publication: **NO**

Background Papers: **None – appendix which forms the review is appended to this report.**

Contact: daniel.carter@ashford.gov.uk – Tel: (01233 330 238)

Report Title: Review of the Chilmington Green Area Action Plan

Introduction and Background

1. The 2017 amendments to the planning Regulations set out (under regulation 10a) that a Local Planning Authority (LPA) must review a Local Plan '*every five years, starting from the date of adoption of the Local Plan*'. The review is a means by which to assess the Local Plan to determine whether a formal revision, in whole or in part, is necessary.
2. A review is different to a revision in the Regulations. A review is mechanism to audit/assess the contents of a Local Plan against the prevailing national planning policy, currently the National Planning Policy Framework (NPPF). Should a review demonstrate that a Local Plan's policies are out of date or inconsistent with the NPPF then a revision to the Local Plan, in whole or in part, could be required.
3. A revision is where amended or new planning policies are proposed in a Local Plan. These new or amended policies would need to follow the relevant formal processes as directed by the planning Regulations. This would include formal stages of consultation with the public, discussion and dialogue with key stakeholders and duty bodies and require the Council to establish a timetable for its production in the Local Development Scheme (LDS). It would also lead to an Examination in Public where an independently appointed planning inspector would determine the soundness of the approach.
4. The review of the AAP has been split into two parts. The first stage discounts the parts of the NPPF that are not considered to be of relevance to the central question of the review – are the policies in the Chilmington Green Area Action Plan out of date?
5. This is required as the NPPF covers a far greater breadth of planning issues than the AAP, and a number of these are irrelevant to the scope and purpose of the AAP. An 'initial sieve' of the NPPF is therefore required to respond to this context.
6. The second element of the review is a more detailed assessment of the relevant sections of the NPPF. This involves highlighting the text of the NPPF with the policies in the AAP to determine their broad consistency. In doing so, the review allows the Council to make a judgement as to whether revisions to some or all AAP policies are needed, either through a partial revision to the AAP or through the preparation of a new plan.
7. As described in the 'conclusion' section below, the review of the AAP demonstrates that revisions are not needed at this stage, as the policy framework in the AAP is considered to be broadly consistent with the NPPF.

8. In these circumstances, the Regulations don't specifically say what to do as they merely state that a review is needed every five years. The NPPF also doesn't clarify the position save for reaffirming the need for a review within the context of making sure that Local Plans remain up to date with national planning policies, albeit this is largely relevant to the more strategic policies.
9. However, it seems sensible to suggest that a new five year timeframe is triggered after the completion of the 2018 review and hence the recommendation above seeks an agreement to review the AAP again by September 2023. Support for such an approach is already highlighted within the AAP itself in any event.
10. That said, it should be noted that the Council can decide to review or revise the AAP at any point. There is no need to wait for the end of the five year period should the Council wish to provide a more up to date/ alternative policy steer to that set out as a means of guiding future development at Chilmington Green. This could be done through revisions to the AAP itself, of through future revisions to the soon to be adopted Local Plan 2030.

Proposal/Current Position

11. The Chilmington Green Area Action Plan forms part of the Council's statutory development plan. It was formally adopted by the Council in July 2013. It relates to a small spatial area of the borough, as identified by the AAP itself. However this area is due to undergo significant change over the next 20 years.
12. The area covered by the AAP is excluded from the spatial area covered by the Council's emerging Local Plan 2030 which is currently be examined by two independent planning inspectors appointed by Government. As such, the AAP will remain the most up to date part of the development plan for guiding development at Chilmington Green, even when the Local Plan 2030 is adopted by the Council (likely to be around early 2019).

Implications and Risk Assessment

13. It is clear that the Regulations dictate that all Local Plans should be reviewed every 5 years. However it is also clear that the main intention of the regulations is to ensure that Local Planning Authorities continue to keep Local Plans up to date and relevant. This is particularly in relation to the need to address strategic issues such as ensuring sufficient housing numbers in an area are delivered and that the supply of these houses is sufficient to meet need and will be delivered without delay.
14. The requirements for a review are less clear for a Local Plan like the Chilmington Green Area Action Plan. This Plan's sole focus is to provide a detailed policy framework for the delivery of a single development. Although Chilmington Green is a significant development in a Borough context, the AAP's scope does not extend beyond this issue. In this context, only certain elements of the NPPF can be considered relevant to the scope and nature of the AAP and this has been reflected in the review below (see part 1 of the review).

15. Additionally, the Chilmington Green development has been granted outline planning permission and the policies in the AAP were a central consideration in the determination of the application. Even if the review suggested that revisions were needed, the primacy of this planning permission would not be altered at this stage.
16. Furthermore, development at Chilmington Green is only now starting to come forward. Accordingly, it is considered too early in the development's lifecycle to warrant any interventions from the Council in terms of amendments or alterations to the policy approach currently in place. In due course such interventions might be needed, but it seems premature at this stage.
17. Finally, it is always the case that Government policy changes over time and that Local Plans and the granting of planning permission can only ever be a snapshot in time. Where justified to do so, certain national policy changes can be secured through the S106 process and variations to these agreements. It is therefore not always necessary or desirable to revise policies in Local Plans as a means of 'catching up'.
18. In light of the above, the implications of the review that has been undertaken are viewed as non-impacting. The outcomes of the review are clear that formal revisions at this point is not necessary, on account of an assessment of conformity with the NPPF. The review therefore poses a very limited risk.
19. The implications and risks associated with not undertaking a review are explored in the section below.

Equalities Impact Assessment

20. Members are referred to the attached Assessment. It is considered that due regard has been made to the equality duty from the start to finish of the review and no negative impacts against any protected characteristics have been highlighted.

Consultation Planned or Undertaken

21. The review is a process undertaken by the Council. No formal consultation is required by the Regulations at this stage.
22. As part of the review the planning policy team have highlighted issues with planning and legal colleagues so that they are aware of the review itself and the likely outcomes.
23. The Local Plan and Planning Policy Task Group are also aware of the review. The then emerging Review was debated at Task Group and the initial audit itself was shared. The likely outcome of the Review was also shared as a means of getting a steer from members as to the likely course of action needed.
24. The Local Plan and Planning Policy Task Group agreed with the methodology proposed for the review and with the interim conclusion that no formal revision to any part of the Chilmington Green AAP was needed at this point.

Other Options Considered

25. Realistically there are no other options available to the Council at this point, in terms of whether or not to conduct a review. Failure to do so would be inconsistent with the Regulations and as such could bring with it some complexities in terms of the legal standing of the AAP, in certain circumstances.
26. The review itself could have suggested that revisions to the AAP are in fact needed. However, the assessment and audit work clearly concludes that any revisions are not required at this point. It is considered that the review itself is thorough and transparent and therefore justifies the recommendations above.

Reasons for Supporting Option Recommended

27. Supporting the option being recommended ensures that the Council is consistent with the planning Regulations.

Next Steps in Process

28. As set out above, the planning Regulations do not currently provide guidance on the stages to follow should a review find that no revisions are needed to a Local Plan, as is the case for this review. However, it seems sensible for the Council to commit to review the AAP again by September 2023 to be consistent with the spirit of the Regulations.

Conclusion

29. If Cabinet agrees with the recommendations set out, the review of the Chilmington Green AAP can be viewed as complete.
30. In light of the findings of the review it is clear that no revisions are needed at this time to alter the Council's approach to development at Chilmington Green. It should remain the primary planning policy document to guide development in this area.
31. Other factors, such as the fact an outline permission is already in place and that the development is in its early stages, also suggest that interventions from the Council are not needed at this time. Should this position change, the Council have the option to revise the policy position in the future.
32. It should not be forgotten that the AAP itself was subject to extensive levels of consultation and was supported by an extensive range of evidence to justify the approach being advocated by the Council at the time. The AAP is also a post-NPPF document, meaning that it has already been assessed against the 2012 NPPF framework that was in place at the time. This process included an Examination in Public where an independently appointed planning inspector deemed the policy framework to be 'sound' in planning terms. These factors also weigh in favour of not seeking to revise the AAP policy framework at this time.

Portfolio Holder's Views

33. 'This review of the Chilmington Green Area Action Plan (AAP) is an important part of the overall process. It provides a transparent and robust assessment and I fully support its conclusion that the AAP remains broadly consistent with the NPPF (2018) and should therefore not be considered 'out-of-date'. A great deal of work went into the production of the AAP, including the assembly of an extensive evidence base, alongside significant consultation with the public. This helped to shape and inform the policies in the AAP, policies which were ultimately found to be sound by an independently appointed government planning Inspector'.

Contact and Email

34. Daniel Carter – Principal Policy Planner – Ashford Borough Council – Planning and Development Service
35. daniel.carter@ashford.gov.uk – 01233 330 238

Appendix 1 – THE REVIEW OF THE CHILMINGTON GREEN AREA ACTION PLAN

PART1

The first part of the review is to determine which elements of the NPPF are directly relevant to the central question being examined – Are the policies in the Chilmington Green Area Action Plan out of date?

An initial sieve is therefore needed as the NPPF is far broader in its scope than the relatively narrow issues being covered by the AAP. In this context much of what the NPPF covers is not directly relevant and therefore it is not necessary to provide a more detailed analysis of these aspects.

The following elements of the NPPF do not form part of the more detailed PART2 assessment below.

Strategic development requirements: The NPPF provides guidance to plan makers on a range of issues that are considered to be strategic in context – i.e. they relate to whole plan issues, covering sustainable planning for the whole borough. These include:

-Objectively Assessed Development needs: The NPPF requires Local Plans to establish a clear strategy for bringing sufficient land forward, at a sufficient rate to addresses objectively assessed development needs over the plan period, in line with the presumption in favour of sustainable development (para 24). There is a clear focus on housing delivery, but this requirement also covers employment and leisure needs.

-Delivering a sufficient supply of homes: To support the Government's objectives to boost the supply of homes the NPPF places great emphasis on ensuring that Local Plans identify a sufficient amount and variety of land to come forward to ensure the supply of development without delay. Within this context the identified supply of specific deliverable sites must include a buffer, moved forward from later in the plan period of either 5%, 10% or 20% depending on certain circumstances.

-Building a strong, competitive economy: The NPPF (section 6) establishes that Local Plans should set out a clear economic vision and strategy which proactively encourages sustainable economic growth, including policies to promote a variety of different types of businesses and premises across the wider area.

-Making effective use of land: The NPPF (section 11) requires Local Plans to promote the effective use of land as a means of meeting the development needs identified. It should be done in a way that makes as much use as possible of previously developed or 'brownfield land'.

-Neighbourhood Plans: The NPPF makes a number of references to Neighbourhood Plans, relating to their role and also the differences between strategic and local planning policies. This guidance is not considered to require further detailed

assessment as no neighbourhood plan is being proposed for the area covered by the AAP at this time.

Area specific guidance: The NPPF includes guidance for specific spatial areas which fall outside of the AAP's geographical scope and therefore do not require further detailed assessment. This includes where the NPPF refers to rural housing (section 5), supporting a prosperous rural economy (section 6), ensuring the vitality of town centres (section 7) and meeting the challenge of coastal change (section 14).

Specific 'upper tier' constraints: The NPPF identifies a number of what could be classed as 'upper tier' constraints which are considered of particular importance that may dictate development needs could not be met. These include Sites of Special Scientific Interest, land designated as Green Belt, Local Green Space, an AONB, a National Park, a Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coast change.

Aside from heritage assets, none to these specific upper tier constraints apply to the spatial area covered by the AAP. With regards heritage assets, the impact of these have already been assessed through the evolution of the AAP and have also been assessed as part of outline planning application process and subsequent granting of permission.

Minerals and safeguarding: The NPPF, under section 15, covers the approach to minerals and safeguarding. The AAP itself was assessed against these broader issues as part of its production. In addition the granting of outline planning permission has now superseded any plan-making requirement. The minerals and waste authority (Kent County Council) were a statutory consultee on the planning application, prior to its approval.

Procedural matters: The NPPF gives a lot of guidance on how decision takers should interpret its approach with regards the handling of a planning application. Clearly this guidance is not directly relevant to the AAP and its broad consistency with the NPPF.

PART2

The second part of the review effectively audits the relevant elements of the NPPF and compares this with the policy coverage of the AAP to determine broad consistency.

| Section of the NPPF | Commentary |
|---|---|
| <p>SECTION 1 – Introduction – paras 1 – 6</p> | <p>The introduction section of the NPPF covers the context of the Framework and how it should be applied in practice. These issues are not directly relevant to whether or not the AAP policies are ‘out of date’.</p> |
| <p>SECTION 2 – ACHIEVING SUSTAINABLE DEVELOPMENT</p> <p>7. The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs⁴ .</p> <p>8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):</p> <p>a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure; b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.</p> <p>9. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.</p> <p>10. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)</p> <p><i>4 Resolution 42/187 of the United Nations General Assembly.</i></p> <p>The presumption in favour of sustainable development 11.</p> <p>Plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that: a) plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change; b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas⁵ , unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁶ ; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.</p> <p><i>5 As established through statements of common ground (see paragraph 27).</i></p> <p><i>6 The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.</i></p> <p><i>7 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.</i></p> <p>12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.</p> <p>13. The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.</p> <p>14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply⁸ : a) the neighbourhood plan</p> | <p>Planning’s economic, social and environmental roles, identified under paragraphs 7,8 and 9 of the NPPF, are consistent to those identified in the 2012 version of NPPF. It therefore follows that the AAP (examined after the 2012 NPPF was published) remains up to date against these broad objectives.</p> <p>With regards the ‘presumption in favour of sustainable development’, the AAP is considered to remain broadly consistent. It includes Policy CG0 of the AAP, entitled, ‘Presumption in favour of sustainable development’ – a policy that is applicable to all development proposals that come forward within the spatial boundary of the AAP. Policy CG10 also refers to the need for the Council (or decision maker) to take a positive approach towards promoting sustainable development and this remains consistent with paragraph 11 of the NPPF.</p> <p>Paragraph 11 of the NPPF now includes references to ensuring Plans are flexible and this now forms part of any ‘presumption’ in favour of sustainable development. Flexibility is not mentioned in Policy CG0 of the AAP.</p> <p>However, the Council considers that its broad policy approach is sufficiently flexible to retain its consistency with the NPPF. For example, the need to be flexible is referred to in the AAP’s vision, as is the need to be ‘resilient to change’. Flexibility is also recognised as important in terms of the approach to viability (para 1.21), achieving quality places and built form (paras 4.9, 5.10, 5.19) and its overall phasing (Chapter 7 and 11) and the approach to the delivery of affordable housing (Policy CG18).</p> <p>Taking this into account, it is considered that the AAP ensures that sufficient emphasis is placed on the need to be flexible in its approach.</p> <p>The elements of the presumption which relate to decision making and/or the guidance provided to the decision maker are not considered relevant to the context of this review.</p> <p>Neighbourhood Plan points are dealt with the PART1 section above.</p> |

| Section of the NPPF | Commentary |
|--|---|
| <p>became part of the development plan two years or less before the date on which the decision is made; b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement; c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, includg the appropriate buffer as set out in paragraph 73); and d) the local planning authority's housing delivery was at least 45% of that required⁹ over the previous three years.</p> <p><i>8 Transitional arrangements are set out in Annex 1.</i></p> <p><i>9 Assessed against the Housing Delivery Test, from November 2018 onwards.</i></p> | |
| <p>SECTION 3 – PLAN MAKING</p> <p>15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.</p> <p>16. Plans should:</p> <p>a) be prepared with the objective of contributing to the achievement of sustainable development¹⁰; b) be prepared positively, in a way that is aspirational but deliverable; c) be shaped by early, proportionate and effective engagement between planmakers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; e) be accessible through the use of digital tools to assist public involvement and policy presentation; and f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).</p> <p>The plan-making framework</p> <p>17. The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area¹¹. These strategic policies can be produced in different ways, depending on the issues and opportunities facing each area. They can be contained in: a) joint or individual local plans, produced by authorities working together or independently (and which may also contain non-strategic policies); and/or b) a spatial development strategy produced by an elected Mayor or combined authority, where plan-making powers have been conferred.</p> <p>18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.</p> <p>19. The development plan for an area comprises the combination of strategic and nonstrategic policies which are in force at a particular time.</p> <p><i>10 This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004). 11 Section 19(1B-1E) of the Planning and Compulsory Purchase Act 2004.</i></p> <p>Strategic policies</p> <p>20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision¹² for:</p> <p>a) housing (including affordable housing), employment, retail, leisure and other commercial development; b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat); c) community facilities (such as health, education and cultural infrastructure); and d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.</p> <p>21. Plans should make explicit which policies are strategic policies¹³. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any nonstrategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.</p> <p>2. Strategic policies should look ahead over a minimum 15 year period from adoption¹⁴, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.</p> <p>23. Broad locations for development should be indicated on a key diagram, and landuse designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or nonstrategic policies)¹⁵.</p> <p><i>12 In line with the presumption in favour of sustainable development. 13 Where a single local plan is prepared the non-strategic policies should be clearly distinguished from the strategic policies. 14 Except in relation to town centre development, as set out in chapter 7. 15 For spatial development strategies, allocations, land use designations and a policies map are needed only where the power to make allocations has been conferred.</i></p> <p>Maintaining effective cooperation</p> | <p>Most of this section of the NPPF relates to the processes and procedures associated with Plan Making and therefore are not directly relevant to whether the contents of the AAP is consistent with the approach in the NPPF. See Part 1 above.</p> <p>However, the AAP clearly provides a positive vision for the future of the area. This is largely encompassed within the vision of the AAP itself, but also the development principles set out under Policy CG1.</p> <p>In addition, as part of the preparation of the AAP there was extensive consultation and engagement between the Council and key stakeholders, including residents, local organisations, infrastructure providers and statutory consultees. This included both formal and informal stages of the preparation process.</p> <p>The AAP provides a policy framework to delivery a significant scale of development, including residential, employment, retail, leisure, community, health and commercial uses. It also establishes the infrastructure that is needed to support its delivery including transport infrastructure and infrastructure which will assist in the provision of energy generation. The policies also seek to conserve and enhance the natural, built and historic environment. In this context the AAP should be viewed as delivering many of the sound planning principles which underpin the NPPF.</p> <p>The AAP is also supported by a series of key diagrams which establish in a spatial way how the development is intended to come forward over time.</p> <p>For references relating to strategic policies versus local policies, and those which relate to neighbourhood planning, see part 1 of the review above.</p> <p>As an aside, the AAP includes a schedule of a range of infrastructure that is required to support the development at Chilmington Green. Although these don't include detailed costings, they do form the basis of the current S106 agreement pursuant to the outline planning permission.</p> |

| Section of the NPPF | Commentary |
|--|------------|
| <p>24. Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.</p> <p>25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, the Marine Management Organisation, county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).</p> <p>26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.</p> <p>27. In order to demonstrate effective and on-going joint working, strategic policymaking authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency. Non-strategic policies</p> <p>28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.</p> <p>29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies¹⁶.</p> <p>30. Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.</p> <p><i>16 Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.</i></p> | |
| <p>Preparing and reviewing plans</p> | |
| <p>31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.</p> <p>32. Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements¹⁷. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).</p> <p>33. Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary¹⁸. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.</p> | |
| <p>Development contributions</p> | |
| <p>34. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.</p> | |
| <p>Examining plans</p> | |
| <p>35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:</p> <p><i>17 The reference to relevant legal requirements refers to Strategic Environmental Assessment. Neighbourhood plans may require Strategic Environmental Assessment, but only where there are potentially</i></p> | |

| Section of the NPPF | Commentary |
|--|---|
| <p><i>significant environmental effects. 18 Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).</i></p> <p>a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs¹⁹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development; b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence; c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.</p> <p>36. These tests of soundness will be applied to non-strategic policies²⁰ in a proportionate way, taking into account the extent to which they are consistent with relevant strategic policies for the area.</p> <p>37. Neighbourhood plans must meet certain ‘basic conditions’ and other legal requirements²¹ before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.</p> <p><i>19 Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 60 of this Framework. 20 Where these are contained in a local plan. 21 As set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended)</i></p> | |
| <p>SECTION 4 – DECISION MAKING – paras 38 – 58</p> | <p>See PART1 section above.</p> |
| <p>SECTION 5 – DELIVERING A SUFFICIENT SUPPLY OF HOMES – paras 59 - 79</p> | <p>See PART1 section above.</p> |
| <p>SECTION 6 – BUILDING A STRONG, COMEPTITIVE ECONOMY – paras 80 - 84</p> | <p>See PART1 section above.</p> |
| <p>SECTION 7 – ENSURING THE VITALITY OF TOWN CENTRES – paras 85 - 90</p> | <p>See PART1 section above.</p> |
| <p>SECTION 8 – PROMOTING HEALTHY AND SAFE COMMUNITIES</p> <p>91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:</p> <p>a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages; b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.</p> <p>92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:</p> <p>a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community; c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs; d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.</p> <p>93. Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard.</p> <p>94. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.</p> <p>95. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by: a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate⁴¹. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce</p> | <p>The AAP is considered to be consistent with section 8 of the NPPF in the following ways:</p> <p>-The vision establishes that the development will be ‘lively and fun, that meets people’s daily needs’, ‘provide the range of community, school, health and other services needed by local people in a joined up way’ and ‘fosters a strong community that develops sense of pride and local ownership’</p> <p>-Policy CG1 ‘Development Principles’ establishes that Chilmington Green shall be, ‘a well-designed, safe and accessible, high quality, sustainable development which supports a viable public transport network, walkable neighbourhoods and a vibrant district centre and two local centres, alongside a development which generates social cohesion’.</p> <p>-Policy CG2 ‘Strategic development requirements’ establishes that Chilmington Green will be ‘focussed around a District Centre that will provide the majority of retail, employment and community-focused accommodation. The District Centre will become the focal point of the community and be delivered in the first phase of the development.....Two Local Centres, serving the everyday needs of their respective neighbourhoods will also be provided.</p> <p>-Policy CG8 ‘Meeting the recreational needs of Chilmington</p> |

| Section of the NPPF | Commentary |
|---|---|
| <p>vulnerability, increase resilience and ensure public safety and security; and b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area. Open space and recreation</p> <p>96. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.</p> <p>97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:</p> <p>a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or</p> <p>b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or</p> <p>c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.</p> <p>98. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.</p> <p><i>41 This includes transport hubs, night-time economy venues, cinemas and theatres, sports stadia and arenas, shopping centres, health and education establishments, places of worship, hotels and restaurants, visitor attractions and commercial centres.</i></p> <p>99. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.</p> <p>100. The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.</p> <p>101. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.</p> | <p>Green' sets out that the development will provide the requisite levels of public open space provision in a way that meets the needs of the development as it evolves. This will include strategic play facilities, informal and natural green spaces and will be delivered through an integrated network of green spaces that connect the key destinations within the development.</p> <p>-Policy CG9 'Discovery Park' establishes that a strategic park will be safeguarded and largely delivered as a result of the Chilmington Green development. A masterplan will be provided that will establish in more detail the uses, location of these uses and how they will be phased and managed over time.</p> <p>-Policy CG10 'Developing a community', sets out that a community led management arrangement is the favoured model of governance and that development contributions will need to be secured to deliver such an arrangement.</p> <p>-Policy CG13 'Cycling and Walking' ensures that a network of strategic pedestrian, cycleway and equestrian routes shall be provided to complement development at Chilmington Green.</p> <p>-Policy CG15 'Education provision' sets out that a secondary school and 4 primary schools will be delivered to support the development as it takes shape.</p> <p>-Policy CG16 'Indoor sports and community leisure provision' and Policy CG17 'Social and community facilities' establishes that an indoor sports hall and several community buildings will be provided to support the development. Social and community facilities will also be provided, including the provision of a primary health care facility for at least 6 GPs.</p> <p>With regards the issue of Local Green Space designation, no application has been received at the time of this review and therefore is not considered at this time.</p> |
| <p>SECTION 9 – PROMOTING SUSTAINABLE TRANSPORT</p> <p>102. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:</p> <p>a) the potential impacts of development on transport networks can be addressed; b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; c) opportunities to promote walking, cycling and public transport use are identified and pursued; d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.</p> <p>103. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. 104. Planning policies should:</p> <p>a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping,</p> | <p>The AAP is considered to be consistent with section 9 of the NPPF. Chapter 9 of the AAP is entitled 'Transport' and covers policies that cover the following issues:</p> <p>-Policy CG11 'Highways and Access' which sets out where the principal vehicle access should be and what off-site requirements are needed to support the wider development. It also establishes how any measures will be funded and what footpaths are required. It also stipulates that more detailed matters shall form part of a Transport Assessment that is required at outline planning application stage.</p> <p>-Policy CG12 'Public Transport' sets out a target for 20% public transport mode share for the development. This shall</p> |

| Section of the NPPF | Commentary |
|--|---|
| <p>leisure, education and other activities; b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned; c) identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development; d) provide for high quality walking and cycling networks and supporting facilities such as cycle parking (drawing on Local Cycling and Walking Infrastructure Plans); e) provide for any large scale transport facilities that need to be located in the area⁴², and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements; and f) recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy⁴³.</p> <p>105. If setting local parking standards for residential and non-residential development, policies should take into account:</p> <p>a) the accessibility of the development; b) the type, mix and use of development; c) the availability of and opportunities for public transport; d) local car ownership levels; and e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.</p> <p>106. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.</p> <p>107. Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use. Considering development proposals</p> <p>108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:</p> <p><i>42 Policies for large scale facilities should, where necessary, be developed through collaboration between strategic policy-making authorities and other relevant bodies. Examples of such facilities include ports, airports, interchanges for rail freight, public transport projects and roadside services. The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be nationally significant infrastructure projects). 43 Department for Transport (2015) General Aviation Strategy.</i></p> <p>a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. 109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.</p> | <p>includes specific measures relating to the subsidisation of dedicated, fast bus travel and focussing on bus priority measures. A public transport plan is also required as part of any S106 Agreement for the development which shall establish the detail of provision sought, including the route, rate of operational subsidy, timing of provision and what measures are intended to encourage greater public transport movements.</p> <p>-Policy CG13 ‘Cycling and Walking’, sets out that a network of strategic pedestrian, cycleway and equestrian routes should be provided to support the development.</p> <p>-Policy CG13a ‘Travel Plan’ requires that a travel plan is needed to bring together the different transportation elements to support the scheme.</p> <p>As an aside, although parking standards have not been set by the AAP, the subsequent design codes which support the outline planning application include guidance on how parking should support the delivery of a sustainable development at Chilmington Green.</p> |
| <p>SECTION 10 – SUPPORTING HIGH QUALITY COMMUNICATIONS – para 112 - 116</p> | <p>This section of the NPPF deals with issues which relate more to the whole borough, rather than just Chilmington Green. However, it should be noted that the vision for Chilmington Green (page 19) sets out that the development shall be ‘flexible in design and resilient to change, and able to respond positively to advances in technology and changing working and daily lifestyles’. Paragraph 5.18 also stipulates that ‘Chilmington Green must provide the best modern community technology with the highest broadband speed available locally’.</p> <p>As an aside, the S106 Agreement for the outline planning permission includes a commitment to deliver high quality communications infrastructure to support the development.</p> |
| <p>SECTION 11 – MAKING EFFECTIVE USE OF LAND – paras 117 - 123</p> | <p>Please see PART1 section above.</p> |
| <p>SECTION 12 – ACHIEVING WELL-DESIGNED PLACES</p> <p>124. The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of</p> | <p>The AAP is considered to be consistent with section 12 of the NPPF in the following ways:</p> |

| Section of the NPPF | Commentary |
|---|--|
| <p>sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.</p> <p>125. Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.</p> <p>126. To provide maximum clarity about design expectations at an early stage, plans or supplementary planning documents should use visual tools such as design guides and codes. These provide a framework for creating distinctive places, with a consistent and high quality standard of design. However their level of detail and degree of prescription should be tailored to the circumstances in each place, and should allow a suitable degree of variety where this would be justified.</p> <p>127. Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.</p> <p>130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).</p> <p>132. The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.</p> <p><i>46 Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified. 47 Birkbeck D and Kruczkowski S (2015) Building for Life 12: The sign of a good place to live.</i></p> | <p>-The vision for Chilmington Green is clear and concise, outlining the type of development that will be delivered. In terms of specific placemaking elements, the visions sets out that the development will be a lively and fun place and will set a challenging standard of innovative design to become a place of special and varied character. The development will also be designed to be flexible and resilient to change.</p> <p>-Policy CG1 'Development Principles' establishes that the development will be well designed, safe and accessible, high quality and sustainable. It will also deliver an integrated and connected network of green spaces and natural habitats. The design of the development will also response to the distinctive landscape character and assets of the site.</p> <p>-The AAP also includes detailed policies which guide how development will be delivered in certain key spatial areas of the built footprint (referred to as Character Areas in the AAP). These establish specific design requirements so that the development both respects the nature and character of the spaces proposed and how these areas will integrate with each other. The character areas identified are the District Centre, Local Centres, The Hamlet, Sothern Fringe and Discovery Park Edge.</p> <p>It is also worth noting that the AAP policy approach has been supplemented by an agreed set of design codes which have been used to help shape and guide the detailed planning of the area.</p> |
| <p>SECTION 13 – PROTECTING GREEN BELT LAND – paras 133 - 147</p> | <p>See Part 1 above.</p> |
| <p>SECTION 14 – MEETING THE CHALLENGE OF CLIMATE CHANGE, FLOODING AND COASTAL CHANGE</p> <p>148. The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. Planning for climate change</p> <p>149. Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures⁴⁸. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.</p> <p>150. New development should be planned for in ways that:</p> <p>a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the</p> | <p>The AAP is considered to be consistent with section 14 of the NPPF in the following ways:</p> <p>-Policy CG19 'Sustainable Design and Construction' requires development to be carbon neutral and this should be delivered through a range of design measures as well as low and zero carbon on-site technologies.</p> <p>-Policy CG20 'Flood Risk and Sustainable Drainage' sets out that development shall avoid areas within the 1 in 100 year floodplain and reduce flood risk through well designed and integrated SUDs. It then provides criteria as how these SUDs should come forward and that a comprehensive strategy is needed relating to their delivery, management and future maintenance.</p> |

| Section of the NPPF | Commentary |
|---|---|
| <p>Government's policy for national technical standards.</p> <p>151. To help increase the use and supply of renewable and low carbon energy and heat, plans should:</p> <p>a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);</p> <p>b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and</p> <p>c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for colocating potential heat customers and suppliers.</p> <p>152. Local planning authorities should support community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning.</p> <p>Planning and flood risk</p> <p>155. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.</p> <p>156. Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.</p> <p>157. All plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change</p> <p><i>49 Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.</i></p> <p>– so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:</p> <p>a) applying the sequential test and then, if necessary, the exception test as set out below; b) safeguarding land from development that is required, or likely to be required, for current or future flood management; c) using opportunities provided by new development to reduce the causes and impacts of flooding (where appropriate through the use of natural flood management techniques); and d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.</p> <p>158. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.</p> <p>159. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.</p> <p>160. The application of the exception test should be informed by a strategic or sitespecific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.</p> <p>161. Both elements of the exception test should be satisfied for development to be allocated or permitted.</p> <p>165. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:</p> <p>a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards;</p> <p>c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.</p> <p>Coastal change</p> <p>166. In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management</p> | <p>-Policy CG21 'Ecology' – requires that development avoids the loss of locally important ecological networks and semi natural habitats. An ecological and mitigation strategy is required, prior to the approval of planning permission. Policy CG21 also requires appropriate mitigation is in place, and suitably established, prior to the commencement of development where an impact occurs.</p> <p>- Policy CG22 'Phasing, Delivery and Implementation' requires a development strategy to be produced to support the main phases of the development. Part of this strategy will cover aspects associated with the schemes construction in terms of its impact and on-site and off-site management to minimise negative impacts of the construction stages.</p> <p>- Para 11.52 also sets out the intention for the Council and the Chilmington Green development consortium to sign a Quality Agreement which will be a firm commitment from the outset that quality will be at the heart of the development. As an aside, this Agreement has now been signed.</p> |

| Section of the NPPF | Commentary |
|---|--|
| <p>should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes</p> <p><i>50 A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use. 51 This includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.</i></p> <p>167. Plans should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas and not exacerbating the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and: a) be clear as to what development will be appropriate in such areas and in what circumstances; and b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.</p> <p>168. Development in a Coastal Change Management Area will be appropriate only where it is demonstrated that: a) it will be safe over its planned lifetime and not have an unacceptable impact on coastal change; b) the character of the coast including designations is not compromised; c) the development provides wider sustainability benefits; and d) the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast⁵².</p> <p>169. Local planning authorities should limit the planned lifetime of development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary to reduce a potentially unacceptable level of future risk to people and the development.</p> <p><i>52 As required by the Marine and Coastal Access Act 2009.</i></p> | |
| <p>SECTION 15 – CONSERVING AND ENHANCING THE NATURAL ENVIRONMENT</p> <p>170. Planning policies and decisions should contribute to and enhance the natural and local environment by:</p> <p>a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate; d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.</p> <p>171. Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework⁵³; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.</p> <p>172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks</p> <p><i>53 Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.</i></p> <p>and the Broads⁵⁴. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development⁵⁵ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.</p> <p>173. Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 172), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character. Habitats and biodiversity</p> <p>174. To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁵⁶; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁵⁷; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.</p> <p><i>54 English National Parks and the Broads: UK Government Vision and Circular 2010 provides further guidance and information about their statutory purposes, management and other matters. 55 For the</i></p> | <p>The AAP is considered to be consistent with Section 15 of the NPPF in the following ways:</p> <p>-the vision for Chilmington Green sets out that the development shall have a <i>'strong identity in a landscape setting.....and shall 'respect and integrates landscape features, woodland and wildlife habitats'</i>.</p> <p>-Policy CG1 'Chilmington Green Development Principles' sets out that development shall positively respond to the distinctive landscape character of the site and its assets, including the landscape of the site and its surrounds, the historic landscape, its topography, woodland, ecologically sensitive areas and important views and vistas. Policy CG1 also sets out that appropriate densities shall be delivered on the edge of the development to mark an appropriate transition from town to countryside.</p> <p>-Policy CG21 'Ecology' – requires that development avoids the loss of locally important ecological networks and semi natural habitats. An ecological and mitigation strategy is required, prior to the approval of planning permission. Policy CG21 also requires appropriate mitigation is in place, and suitably established, prior to the commencement of development where an impact occurs.</p> <p>- Policy CG6 'Southern Fringe Character Area' sets out that development on edge shall be designed in a way that creates an informal boundary edge. It also sets out that low density development is required to mark a suitable transition from development to countryside and, in part, act as informal</p> |

| Section of the NPPF | Commentary |
|---|---|
| <p><i>purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. 56 Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system. 57 Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.</i></p> <p>176. The following should be given the same protection as habitats sites:</p> <p>a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites⁵⁹; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.</p> <p>177. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined. Ground conditions and pollution</p> <p>178. Planning policies and decisions should ensure that: a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);</p> <p><i>58 For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat. 59 Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.</i></p> <p>b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.</p> <p>179. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.</p> <p>180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁰; B) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.</p> <p>182. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.</p> <p><i>60 See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).</i></p> <p>183. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.</p> | <p>routes for biodiversity and provide opportunities to connect ecological assets.</p> |
| <p>SECTION 16 – CONSERVING AND ENHANCING THE HISTORIC ENVIRONMENT</p> <p>184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value⁶¹. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations⁶².</p> <p>185. Plans should 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. This strategy should take into account:</p> <p>a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; c) the desirability of new development making a positive contribution to local character and distinctiveness; and d) opportunities to draw on the contribution made by the historic environment to the character of a place.</p> <p>186. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.</p> <p>187. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to: a) assess the significance of heritage assets and the contribution they make to their environment; and b) predict the likelihood</p> | <p>The AAP is considered to be consistent with section 16 of the NPPF in the following ways:</p> <p>-The vision of the AAP sets out that development shall respect and integrate heritage buildings with the wider scheme.</p> <p>-Policy CG1 'Development Principles' sets out that the development shall positively respond to the distinctive assets of the site and its surrounding, including historic buildings, historic landscape and archaeological features.</p> <p>-Policy CG5 'Chilmington Green Hamlet Character Area' requires that development is sensitively designed and located</p> |

| Section of the NPPF | Commentary |
|---|--|
| <p>that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.</p> <p><i>61 Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.</i></p> <p><i>62 The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.</i></p> <p>188. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.</p> <p>Proposals affecting heritage assets</p> <p>190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.</p> <p>191. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.</p> <p>Considering potential impacts</p> <p>193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.</p> <p>194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: 56 a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional⁶³.</p> <p>195. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.</p> <p>196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.</p> <p>198. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.</p> <p>199. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible⁶⁴. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.</p> <p><i>63 Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. 64 Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.</i></p> <p>200. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.</p> <p>201. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.</p> <p>202. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.</p> | <p>to respect and complement the hamlet's existing historic and architectural character. To achieve this aim, a design strategy shall be produced to support an application.</p> <p>- Policy CG5 goes on to provide guidance on the scale of housing density etc, alongside a range of other measures to ensure that the new development is suitably designed for its context.</p> <p>As an aside, heritage issues have been explored as part of the outline planning application and remain important considerations when detailed schemes are promoted within the AAP area. This includes consultation with the main relevant stakeholders of Historic England and KCC heritage.</p> |
| <p>SECTION 17 – FACILITATING THE SUSTAINABLE USE OF MINERALS – paras 203 – 211</p> | <p>See Part 1 above.</p> |

Conclusion

It is considered that the above assessment has shown that the AAP policy framework remains broadly consistent with the NPPF and should not therefore be considered 'out of date'.

As Part 1 sets out, there are many aspects of the NPPF which are not directly relevant to the issues of consistency given its broader scope and wider remit. As such, it is the more detailed / topic specific parts of the NPPF which are most relevant to the central question being debated – is the APP policy framework out of date?

The more detailed assessment contained within Part 2 of the Review shows that in most cases the policy framework of the AAP covers the broad requirements of the NPPF and the sound planning principles that are incorporated within it. This is not surprising as most of the thrust of the new NPPF policies remain broadly consistent with those identified under the 2012 version of the NPPF which was the framework that the AAP was assessed against as part of its production, including through the Examination in Public process, conducted by an independently appointed Government planning inspector.

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

| | |
|--|---|
| Lead officer: | Daniel Carter |
| Decision maker: | Cabinet |
| Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop | <p>Agree the recommendation of the review undertaken on the Chilmington Green AAP (AAP) as to whether its policies remain broadly up to date (and therefore broadly consistent) with the National Planning Policy Framework (NPPF).</p> <p>The review is appended to the Cabinet report and concludes that the AAP's policies are broadly up to date with the policies enshrined within the NPPF. Therefore no formal revisions are necessary at this stage and the AAP can retain its due weight as part of the development plan.</p> <p>The review also concludes that a new five year period should begin from the date of the Cabinet decision. This will be the new five year period whereby another review will need to be undertaken. The Council reserve the right to review/revise the AAP at any point within this period.</p> |
| Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision. | 13 th September 2018 |
| Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? | <p>The review of the AAP is solely a mechanism to determine whether or not the AAP remains broadly consistent with the NPPF. The planning Regulations require such reviews to take place every five years as a means of ensuring that Local Plans remain up to date with the national planning agenda. The requirement for a review applies to all Local Plans.</p> <p>However the context of the review needs to be understood in that it is less clear as to the merits of conducting a review for a Local Plan such as the Chilmington Green AAP. The AAP solely deals with providing a policy framework to guide a single development, albeit a significant one within the borough. It is not considered with wider strategic issues such as the borough wide housing land supply position, the need to boost housing supply across the borough or meeting the wider development needs of the borough.</p> <p>In addition, the Chilmington Green development has already been granted outline planning permission and this scheme is now being built out. Whatever the outcome of any review, the primacy of this planning permission would not be altered at this stage.</p> |

| | | |
|--|--|---|
| | <p>Based on these factors, the practical implications of the review of the AAP are very limited. Nevertheless, a review is needed to comply with the regulations and has therefore been conducted.</p> <p>In light of the above, the review itself will have a very limited, if any, impact on people.</p> | |
| <p>Information and research:</p> <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. | <p>When the AAP was first produced it was subject to extensive levels of evidence and was also examined through a formal examination process, led by an independent Inspector, appointed by Government.</p> <p>The review itself requires little evidence. It is an assessment undertaken by the Council that compares what the new NPPF requires with what the AAP policies seek to achieve.</p> | |
| <p>Consultation:</p> <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? | <p>Internally the context and nature of the review has been shared with planning and legal colleagues.</p> <p>The Planning Policy Task Group (member group) are also aware of the review. The then emerging review was debated at Task Group and the initial audit itself was shared. The likely outcome of the review was also shared as a means of getting a steer from members as to the likely course of action needed.</p> <p>The exact impact on those with protected characteristics was not analysed as part of this process. However, the production of the AAP and the decision to adopt the AAP was subject to EIA screening.</p> <p>The review has concluded that the AAP should not be revised and therefore no changes are being proposed. In this context the original EIA for the AAP remains valid and relevant. Also, it is considered that the outcome of the review will have no differential impact on people with different protected characteristics.</p> | |
| <p>Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.</p> <p>When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.</p> | | |
| <p>Protected characteristic</p> | <p>Relevance to Decision High/Medium/Low/None</p> | <p>Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral</p> |

| | | |
|-----------------------------------|-----|----------|
| <u>AGE</u> Elderly | Low | Positive |
| Middle age | Low | Positive |
| Young adult | Low | Positive |
| Children | Low | Positive |
| <u>DISABILITY</u> Physical | Low | Positive |
| Mental | Low | Positive |
| Sensory | Low | Positive |
| <u>GENDER RE-ASSIGNMENT</u> | Low | Positive |
| <u>MARRIAGE/CIVIL PARTNERSHIP</u> | Low | Positive |
| <u>PREGNANCY/MATERNITY</u> | Low | Positive |
| <u>RACE</u> | Low | Positive |
| <u>RELIGION OR BELIEF</u> | Low | Positive |
| <u>SEX</u> Men | Low | Positive |
| Women | Low | Positive |
| <u>SEXUAL ORIENTATION</u> | Low | Positive |

| | |
|---|-----|
| Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it. | N/A |
|---|-----|

| | |
|--|-----------------------|
| Is the decision relevant to the aims of the equality duty? | |
| Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance . | |
| Aim | Yes / No / N/A |
| 1) Eliminate discrimination, harassment and victimisation | N/A |

| | |
|--|-----|
| 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it | N/A |
| 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it | N/A |

| | |
|--|---|
| <p>Conclusion:</p> <ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. • There should be no unlawful discrimination arising from the decision (see guidance above). • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? | <p>Due regard has been made to the equality duty from start to finish of this Review into the Chilmington Green Area Action Plan.</p> <p><i>The council's revised policy register will assist services to meet this</i></p> |
| EIA completion date: | 26 th July 2018 |