

The Planning Policy Team  
Rother District Council

**Our ref:** KT/2024/131733/OR-01/PO1

**Date:** 23 July 2024

Sent by email

Dear Planning Policy Team,

**Rother Local Plan Regulation 18 Consultation – Rother Local Plan 2020 - 2040 Draft (Regulation 18) Version, April 2024.**

Thank you for consulting us on your Regulation 18 document 'Rother Local Plan 2020 - 2040 Draft (Regulation 18) Version, April 2024'. We have the following comments to make.

We received consultation from you on 30 April 2024 and would like to provide comments with respect to our remit. We hope that you find our comments useful, and we would be pleased to meet with you to discuss in more detail any issues or queries you may have.

**Environment Agency Position**

Our aim is to assist you prepare and implement a sound, robust, and effective plan that is reflective of national policy and your local evidence base. We hope that this collaborative process leads to a plan that delivers sustainable development, contributes to a stronger economy, and safeguards the environment for future generations.

We have provided detailed comments on issues and opportunities within our remit in relation to your vision, objectives and spatial strategy. We have organised our comments under each relevant chapter with reference to policy numbers and page numbers for ease of navigating our response.

**Duty to Co-operate**

Most natural resources extend across multiple Local Authority areas. We encourage the Council to make full use of the Duty to Co-operate when revising this draft local plan. Cross-boundary, collaborative working will ensure that strategic priorities across local boundaries are properly co-ordinated. Please consider this when addressing climate change, flood risk, waste management, habitat and biodiversity enhancement, watercourse protection and improvement, water and waste resources.

**Environment Agency planning advice service**

As allocated or windfall sites with relevant environmental constraints or opportunities progress towards development, we would encourage applicants to engage with our planning advice service as early as possible.

We can provide detailed guidance on and/or review technical information for development proposals, prior to submission of planning applications, as part of our cost recoverable planning advice service.

Engagement with us prior to formal submission can provide applicants with greater certainty regarding our position and can speed up our formal response to planning applications. It should also result in better quality and more environmentally sensitive development.

We look forward to continuing to work in partnership with Rother Council to ensure development protects and enhances the environment.

We hope that you find our comments useful, and we would be pleased to meet with you to discuss in more detail any issues or queries you may have. Should you have any further questions, please do not hesitate to contact us.

Yours faithfully,

**Abbie Philpott**  
**Planning Advisor**

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## 1. Introduction

### 1.10 – page 8

#### Evidence base

We are encouraged to note your intentions to prepare a comprehensive evidence base to inform the new Local Plan policies, and to make relevant evidence base documents available as part of consultation exercises, to set out justification for draft policies and help inform representations.

We look forward to working with you to update the evidence base to ensure that all decisions are informed and justified, in line with the ‘tests of soundness’ set out in the National Planning Policy Framework (NPPF) (Paragraph 35).

We are keen to share environmental evidence and data to inform Local Plan policies and planning decisions; data – including maps of Flood Zones, Source Protection Zones (SPZs) and so on – is available to download from the Defra Data Services Platform.

We would particularly encourage that we are consulted on any addendum to the Strategic Flood Risk Assessment (SFRA) and are involved if it is determined that a Level 2 Assessment is necessary.

### Section 1.40 – page 17

#### HELAA

We are encouraged by your decision to consult on the development strategy and draft Housing and Employment Land Availability Assessment (HELAA) before final site selection and specific site allocation policies are decided.

We would like to be involved in this so that we can advise on how sites can best be used and provide advice on potential issues e.g. the potential issues surrounding proximity to waste sites such as noise, dust, odour etc.

## 2. Vision, Overall Priorities and Objectives - page 19

We welcome your priority of being “Green to the Core” however, we would encourage your vision to be broadened to more clearly incorporate blue infrastructure, in line with your proposed policy “HWB5: Green and Blue Infrastructure” (page 211). We recommend the term “blue-green infrastructure” is used consistently to support the inclusion of urban infrastructure relating to water. These are both equally important sources of biodiversity and, if managed together, will have a cumulative benefit for the wider area and its residents. This is especially important for an Authority such as Rother, with low-lying coastal areas. We recommend policies that promote the re-naturalisation of riverbanks and streams for biodiversity, flood risk and public connection to nature.

We recommend amending “green infrastructure” to “blue-green infrastructure” or “blue and green infrastructure”.

## 3. Green to the Core - page 31

#### **Proposed Policy GTC4: Water Efficiency – page 43**

We welcome the proposal to support tighter standards for water efficiency, however we would highlight Southern Water’s target to reach 100 litres per person per day by 2040. If this is to be achieved, then new housing will need even lower values to offset older, less efficient properties. It is positive to note that the plan already includes engagement with the relevant water companies (section 3.28).

We note that water efficiency requirements for commercial developments have not been included within this policy. We would expect commercial developments to meet Building Research Establishment Environmental Assessment Methodology (BREEAM) “excellent” for the same reasons. Rother is within a water stressed area.

As you have stated, in December 2023, the Secretary of State for Department for Levelling Up, Housing and Communities (DLUHC) stated a review of the Building Regulations 2010 (Part G) would take place to allow local planning authorities to introduce tighter water efficiency standards in new homes. Some wording change to this draft policy may be necessary in the future.

#### **Proposed Policy GTC7: Local Nature Recovery Areas – page 50**

Blue infrastructure should be included within the first paragraph of of the policy.

### **4. Live Well Locally – page 62**

#### **Proposed Policy LWL5: Distinctive Places (v) – page 84**

We are pleased to note the identified objective for “Bioregional Design” within proposed policy “LWL5: Distinctive Places” to “align development with the ecological and natural systems of the region” (Section 4.45, page 87). We would encourage that developments maximise opportunities to promote and enhance biodiversity, not just limited to open space, but also via living roofs, river restoration and enhancement and so on.

### **5. Development Strategy and Principles – page 107**

#### **Section 5.7 – page 108**

We are pleased to see that you have made a commitment, in line with the NPPF, to undertake a sequential approach to development based on the SFRA and taking account of all sources of flooding. We understand the SFRA is currently being developed and we have provided modelled data in support of this. We would encourage further collaboration in production of the SFRA and would be happy review any draft reports or modelling ahead of the final submission.

#### **Vision for Bexhill – page 123**

The Pevensy Bay to Eastbourne Coastal Management Scheme is not mentioned anywhere within the Bexhill chapter. We would like to draw your attention to this scheme, which will manage the 15km stretch of coastline between Holywell in Eastbourne and Cooden Beach in Pevensy Bay over the next 100 years.

Reducing coastal flood and erosion risk to properties and infrastructure in the scheme area requires action. The task is complex and we have big ambitions to match. Alongside making the area more resilient to coastal flooding, we want to deliver interventions that will benefit the wider community and environment. We are working with a wide range of organisations as well as local communities as we recognise that better outcomes can be achieved by working together.

This scheme covers the far south-west corner of Rother district's coastline, from Norman's Bay to Cooden, therefore we recommend that you explore the impact this may have on the Bexhill policy area outlined in the Local Plan, and any opportunities this may present to deliver the priorities set out within the Local Plan, and work with neighbouring authorities also covered by the scheme to deliver wider benefits for this stretch of coastline.

### **Proposed Policy DEV2: Comprehensive Development and Masterplanning – page 181**

Masterplanning must also include appropriate foul drainage connections, prior to occupation.

## **6. Health and Wellbeing - 198**

### **Proposed Policy HWB5: Green and Blue Infrastructure – page 211**

We would prefer to see separate policy wording for green and blue infrastructure. Looking at the definition of green infrastructure these are predominately artificial or highly managed features associated with human activities, whereas the definition of blue infrastructure includes more natural habitats. Therefore, it would be more appropriate to have separate policy wording so that wording for each can maximise the benefits of each, whilst also protecting biodiversity and opportunities for habitat restoration.

## **7. Infrastructure – page 221**

We have no comments to make on this section.

## **8. Housing - 228**

We have no specific comments about this section, but please see our comments for section 11, especially those relating to flood risk.

## **9. Economy – page 316**

### **Proposed Policy ECO6: Holiday Sites – page 336**

We support this policy and are pleased to see flood risk included in it. We suggest that part iv is amended to read “Not be in an area at risk of flooding, unless a site-specific flood risk assessment has demonstrated that the development will be safe

now and taking account of climate change, in the future, and will not increase flood risk elsewhere.”

## **10. Landscape Character – page 355**

### **Proposed Policy LAN1: Rural Environments and Landscape Character – page 355**

We welcome this policy for the inclusion of wetlands (Romney Marshes and Pevensey Levels) as priority landscape features for enhancement and conservation. Wetlands are key indicators for groundwater quality, given the connectivity between groundwater and wetlands. As such we welcome any proposals to better protect and enhance these features.

## **11. Environmental Management – page 366**

### **Proposed Policy ENV1: Coastal, Water and Flood Risk Management – page 366**

We have many comments in relation to proposed policy ENV1, so for ease of understanding we have arranged our comments by topic.

#### **Biodiversity:**

##### **Section ii) – page 366**

While we are pleased to see that you will seek opportunities to increase the buffer distances we would like this to be more ambitious with requirement for buffer zones (and extended buffer zones) between new developments and watercourses. The creation and management of ecological buffer zones provide space:

- for riparian wildlife to inhabit and move along watercourses
- to help protect the biodiversity of the watercourse from new development
- to allow natural river processes to occur and rivers to function naturally.
- provide space for river enhancement or restoration where this is necessary (particularly in the case of larger buffer zones).

We would also like to see reference to the creation and management of new wetland areas to help manage flood risk and reduce diffuse pollution.

There is no mention of culverts or de-culverting anywhere in the current Local Plan. We strongly recommend inclusion of a policy that encourages development to carry out de-culverting wherever possible to increase light provision for aquatic plants and animals, to improve terrestrial connectivity and to provide green corridor connection with introduction of a riparian zone.

Would also like to see removal of redundant in channel and bank structures from main rivers where possible to improve habitat connectivity upstream.

#### **Flood Risk:**

##### **Section ii) – page 366**

We support the commitment to ensure all classifications of watercourses are not adversely affected by development and to seek opportunities to increase buffer

distances as defined in the Environmental Permitting (Eng & Wales) Regulations 2016 (as amended).

### **Section iii) – page 366**

Whilst we support this policy in principle, we would encourage this to be strengthened to make sure a sequential approach to the layout is applied to all proposals in flood risk areas ensuring the most vulnerable form of development is placed in the areas of lowest risk.

### **Section v) – page 367**

We would like to see Working with Natural Processes (WwNP) or Natural Flood Management (NFM) included in relation to v) “Contributions will be sought for improvements to infrastructure to mitigate against flood risk where it is deemed necessary; and”. For example, by encouraging the use of NFM measures to help mitigate existing flood risk to communities. These measures are already being explored within the Combe Haven valley for small communities such as Crowhurst and can be important interventions.

### **Flood risk Management – general comments**

Flood Zone 3b (FZ3b) is the functional floodplain. This zone comprises land where water from rivers or the sea must flow or be stored in times of a flood. Only ‘essential infrastructure’ is permitted in FZ3b (subject to the flood risk Exception Test) and ‘water compatible’ development, because of the expected high frequency of flooding and the particular importance of keeping these areas free from obstruction.

The definition of FZ3b within the national Planning Practice Guidance (PPG) (Table 1: Flood Zones) states that it will normally comprise of:

- land having a 3.3% or greater annual probability of flooding, with any existing flood risk management infrastructure operating effectively; or
- land that is designed to flood (such as a flood attenuation scheme), even if it would only flood in more extreme events (such as 0.1% annual probability of flooding).

The SFRA should identify the Functional Floodplain and we recommend that you consider including this definition in your flood risk management policy to allow for accurate sequential test implementation when determining land use.

We would look to the SFRA to identify Functional Floodplain as well as assess the risk from all sources of flooding taking the effects of climate change into account. The SFRA should also seek to make recommendations to reduce the causes and impacts of flooding.

More information on SFRAs can be found here: [How to prepare a strategic flood risk assessment - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-prepare-a-strategic-flood-risk-assessment)

### **Water quality and resource:**

Currently i) within proposed policy ENV1 states “Ensuring that new development does not have an adverse effect on the water quality and potential yield of water resources, in line with the objectives of the South East River Basin Management

Plan, including reference to groundwater ‘source protection zones’;”.

We recommend this is revised to “Ensuring that new development will only be granted planning permission where it can be demonstrated that it would not result in an adverse effect on the water quality and potential yield of water resources...”

This would align with the Water Framework Directive (WFD), a legal framework established to protect and improve the quality of all water resources, requiring inland and coastal waters (and groundwater bodies) to reach ‘good status’ by 2027.

Additionally, any development should prevent deterioration of surface water quality, and deterioration of WFD status of waterbodies. Development should also contribute significantly to the maintenance and improvement of WFD status, aligning with the overarching goal of achieving WFD objectives.

For more information of waterbody WFD status, please refer to:

<https://environment.data.gov.uk/catchment-planning/>

Chapter 11 also needs to identify the links between water quality and climate change, as it necessitates mitigation strategies. For example, the increased risk of flooding resulting from the climate change will impact water quality due to an increased occurrence of storm overflows from wastewater treatment works. Additionally, climate change may lead to drier summers, resulting in reduced river flow. With wastewater discharges into rivers, it would result in a reduced dilution of wastewater discharges under the reduced river flow condition. Therefore, we would like to see all the risks linked with water quality to be identified and covered in this section. Policies and frameworks need to encompass measures to enhance water quality resilience in the face of climate change-induced challenges.

We recommend you include the catchment partnership website: [Rother and Romney | Catchment Data in the Explorer](#) in this section. They seek to implement, or facilitate the implementation of, nature based solutions to reduce flooding and improve water quality wherever possible, and to enable the catchment to become more resilient to climate change.

## **Groundwater and contaminated land:**

### **Foul Drainage**

We note that foul drainage has been included within Proposed Policy ENV1 to identify that all foul drainage should be connected to mains sewer, where practicable and has identified the hierarchy for non-mains drainage. We welcome this being included within the environmental policy. However, it may be beneficial to create a separate Foul Water Drainage Policy which identifies the hierarchy and identifies that for any large development, it would be unlikely for these developments to be permitted to discharge via a non-mains drainage system given the potential risk to the environment. Any development proposing to discharge to a package treatment plant, should identify if their proposed drainage strategy is compliant with the General Binding Rules. Developments which do not meet the General Binding Rules



may require a permit and should consult with the Environment Agency. Should a permit be required it cannot be guaranteed that a permit would be granted and as such we would recommend that any permit applications be run concurrently with any planning applications.

Major developments must provide provision to attach to mains sewer as part of the development to prevent discharge of large volumes of treated effluent to the environment. This should be agreed through liaison with the Local Water Undertaker.

Reference should be made to the Environment Agency's approach to groundwater protection, should also be included to enable developers to appropriately understand the required expectations from the Agency for any proposed developments. We would recommend that similar consideration be made to foul drainage as has been made to surface water drainage and recommend that should they be unable to meet the General Binding Rules, that the highest possible standards of treatment of foul water be required prior to discharge to the environment.

### **Section 11.7 - Page 369**

"Before a proposal to use non-mains foul drainage is considered in detail an applicant must demonstrate to Council's satisfaction that it is not practicable to connect to the public sewer."

We strongly recommend adding to the end of this sentence: "in accordance with Environment Agency guidance on discharge of surface water and groundwater."

### **Surface Water Drainage**

#### **Proposed Policy ENV2: Sustainable Surface Water Drainage - page 371**

We welcome this policy to promote water quality and water efficiency of any proposed developments.

We would recommend that comment be included to identify that any proposed SuDs features should not drain into land affected by contamination or Made Ground to further prevent the ingress of pollutants into the underlying soils and groundwater. In locations where Made Ground or land affected by contamination may be present (i.e. historic landfills), the Environment Agency should be consulted to ensure that no proposed drainage will cause pollution to controlled waters. This would also be advisable in proposed policy ENV7: Environmental Pollution to prevent the potential washing of contaminants into the underlying groundwater from Land affected by contamination.

We welcome the recommendation for three stages of treatment of surface water be required prior to discharge to the Pevensey Levels to mitigate the impact on water quality and quantity.

#### **Proposed Policy ENV7: Environmental Pollution – page 397**

We welcome and encourage this policy, to prevent pollution to the environment through any proposed developments.

This policy should be underpinned by the Water Framework Directive (WFD) and

River Basin Management Plans (RBMP) for potential risks to controlled waters from proposed developments and policies should aim to identify how the plan is to help deliver WFD objectives.

We would recommend that further comment be provided towards the requirement to remediate existing contamination and mitigate pollution from proposed developments, including, where development is proposed at sites known or suspected to be affected by contamination, a Preliminary Risk Assessment (PRA) must be submitted at the earliest opportunity, and consideration must be given to receptors including controlled waters during any demolition, enabling and construction phases of development, including piling. Any assessments and investigations conducted on site should follow relevant guidance including Groundwater protection - GOV.UK, Land contamination risk management (LCRM) and our Guiding Principles for Land Contamination. The policy should include requirements to investigate, and if necessary, remediate potentially contaminated land, and to only permit development that has the potential to cause pollution to land or water, with appropriate mitigation measures.

Source protection zones (SPZs) should be included within this policy to ensure that they are considered when assessing potential environmental pollution risks, particularly those which may pose a risk to groundwater as these should be promoted in areas outside of SPZ's. This includes proposals that have the potential to release hazardous substances to ground, involve effluent discharge to ground or will physically disturb an aquifer.

We welcome and encourage the redevelopment of brownfield sites, subject to submission of preliminary risk assessments (PRAs) in support of planning applications, to ensure that the requirements set out in the National Planning Policy Framework (NPPF) (Paragraph 180) can be met. Ultimately, the submission of information such as a PRA can help Local Planning Authorities make an informed judgement on the safe development of any site, with regard to past use, proposed use and site setting.

## **12. Heritage – page 406**

We have no comments to make on this section.

## **13. Site Allocations -**

### **Development sites**

We note that numerous development sites have been included within the Local Plan for further future development and that the DRAFT Housing and Economic Land Availability Assessment (HELAA) is to be consulted on and included at a later date.

We would wish to be included in this consultation to identify sites that may require further attention in the future.

It is important that a sequential test, based on the SFRA and assessing all forms of flooding is undertaken and that the functional floodplain is identified to avoid allocating sites in areas where development should not be permitted.

It is important that all sites that have an element of flood risk are developed using the following principles:

- Sequential approach ensuring that more vulnerable development is placed in the areas of lower risk.
- Take account of residual risk – for example a failure of flood risk management infrastructure or a flood event that exceeds a flood management design standard.
- Assess risk using the “design flood level” – generally taken as river flooding likely to occur with a 1% annual probability and tidal with a 0.5% annual probability plus an appropriate allowance for climate change.
- Provide sufficient freeboard allowances above the design flood level – usually recommended at 600mm.
- Where flood risk compensation is required, provide this by using direct or ‘level for level’ compensation to ensure the same volume of flood storage is available at all levels of flooding.

We note that the Old Mears (ICK0005) and The Atlas Business Park (ICK0045) development sites are outlined within the Local Plan and HELAA, which are situated within Rye Harbour Road Industrial Estate. This is a location which is known to have historic contamination from numerous contaminants including acid tars and PAHs. Historic contamination is considered likely to remain beneath the Rye Harbour Road Industrial Estate and we would welcome further remediation in this area, however we would recommend that prior to any development on site, including demolition, further consultation be undertaken with the Environment Agency. We would consider this a relevant environmental constraint that should be included within the proposed HELAA. It is noted that Land adjacent to Rye Wastewater Treatment Works (ICK0021) has been rejected given risks to the adjacent wharf and whether the site is available or not. We would recommend that should the Atlas Business Park and Old Mears be approved for development that the Land adjacent to Rye Wastewater Treatment Works be included within this development (if available) to promote the remediation of any historic contamination at the site. As the contaminant risks are associated with Rye Harbour Road as a whole, it may be difficult to remediate site located in this area in isolation given the expected extent of existing contamination. We can include a list of sites that would be considered a priority in further discussions should this be requested.

We would welcome the development of historic landfills where remediation is appropriate and feasible.

Source Protection Zones should be considered when assessing for potential development sites to promote the remediation of sites that may have the potential to be contaminated or pose a risk to the environment from previous development. High risk developments should be promoted in areas where the risk posed to the environment is considered lower (i.e. outside of Source Protection Zones) or that suitable mitigation measures can be implemented to prevent pollution of the

environment.

**Other:**

**Glossary - Page 445**

We note the draft document still uses the old definition of FZ3b (1 in 20 / 5% AEP).  
Please can this be updated.