

Drainage and Planning Policy Consultation Report

November 2019

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1. Introduction

The Drainage and Planning Policy (DPP) sets out the criteria for the surface water management aspects of planning applications that Kent County Council (KCC) is asked to consult on. The DPP builds on the Department for Environment, Food & Rural Affairs (DEFRA's) Non-Statutory Technical Standards and National Planning Policy Framework (NPPF).

KCC have prepared a revision of the DPP based upon our experiences of undertaking the statutory consultee role and to incorporate changes to the National Planning Policy Framework (NPPF) in 2019.

The new policy will be adopted by KCC after appearing before the Environment and Transportation Cabinet Committee in November 2019. The consultation helped to inform the final draft of the Policy

Consultation process

The DPP was presented to KCC's Flood Risk Management Committee on 22 July 2019 (the papers for the committee can be found here:

<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=584&MId=8141&Ver=4>).

The committee includes representatives of the districts and boroughs of Kent as well as parish councils.

The consultation on the revised Drainage and Planning Policy started on 19th August and ran until 30th September 2019.

The Flood and Water Management team works closely with community groups and parish councils. The consultation was sent to Kent Association of Local Councils (KALC) and directly to stakeholders such as communities and parishes, the districts and boroughs of Kent (LPA's), statutory undertakers, the Environment Agency and the Internal Drainage Boards.

We hosted a developer's seminar during the consultation period to inform the revisions of the document; 97 developers and consultants were invited.

The consultation was also tweeted three times from the Flood and Water Management Twitter account during the consultation period and was retweeted from the KCC corporate Twitter account:

Date	Content
19.08.19	We have prepared a revision of our Drainage and Planning Policy. It is now out for public consultation until the 30th September. We welcome feedback from those involved in delivering development within Kent. Please see Link for more information: https://consultations.kent.gov.uk/consult.ti/DrainageandPlanningPolicy/consultationHome ...
05.09.19	Don't forget our Drainage and Planning Policy is still out for public consultation until the 30th September. Have your say! Please see Link for more information: http://www.kent.gov.uk/drainageandplanningpolicy ... This was also retweeted by the official KCC twitter page.
19.09.19	10 days left to comment on our Drainage and Planning Policy during public consultation. Have your say until the 30 th September! Please see link for more information: kent.gov.uk/drainageandplanningpolicy

The consultation asked seven questions about the revision of the DPP, each with an option to provide more details about the response. There were also questions about whether the Equality Impact Assessment (EqIA) was appropriate, as well as 'about you' questions that gathered the respondent's equalities information.

All consultation documents were available online at www.kent.gov.uk/drainageandplanningpolicy and alternative formats including hard copies were available upon request.

The following table summarises the frequency that documents were downloaded from the consultation directory: www.kent.gov.uk/drainageandplanningpolicy

Documents	Downloads
Drainage Planning and Policy Statement – (PDF version)	227
Drainage Planning and Policy Statement – (Word version)	60
Equality Impact Assessment - (PDF version)	20
Equality Impact Assessment (Word version)	6
Consultation Questionnaire (Word version)	14

In terms of promotion, 3,320 invites were sent to the consultation directory registered users who had expressed interest in being kept informed of consultations.

2. Respondents

We received 34 responses; 29 to the consultation questionnaire and five separate responses which provided written comments in the form of letters. The written responses will be looked at in Section 5. A breakdown of the responders is shown in the Figure 1.

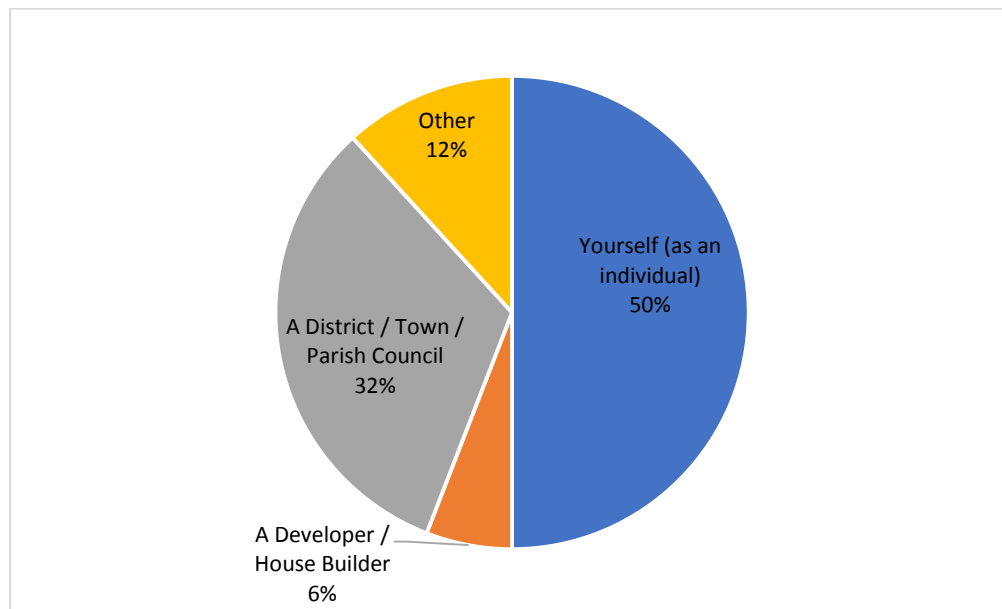


Figure 1 Breakdown of responders

Of the 34 respondents, seventeen were from individuals, eleven were on behalf of parish councils and six responded on behalf of non-governmental organisations such as sewerage undertakers, developers and technical organisations.

3. Consultation responses

This section is an analysis of the responses to questions on the DPP, including a summary of the free text responses we received.

General comments

A number of comments were received in relation to maintenance of ditches and existing drainage networks; this is not a matter for this policy and relates to maintenance undertaken by KCC Highways. For specific locations that have been referenced in the consultation responses, we have provided information to KCC Highways.

The role of parish council's and their role in the planning process was highlighted. We therefore intend to recognise the definition of parish councils more throughout the document.

A comment was made that there is not enough emphasis on consultation with relevant third parties in the early design process. This will be rephrased to highlight that third-party consultation is not only recommended but essential.

A small number of specific comments were received which it was felt needed individual responses. These have been summarised in Appendix 1 for each question.

Question 2. *To what extent do you agree or disagree that the Policy Statement is consistent with the NPPF and other national guidance for surface water management requirements for new development?*

A breakdown of the 29 responses is given in Figure 2.

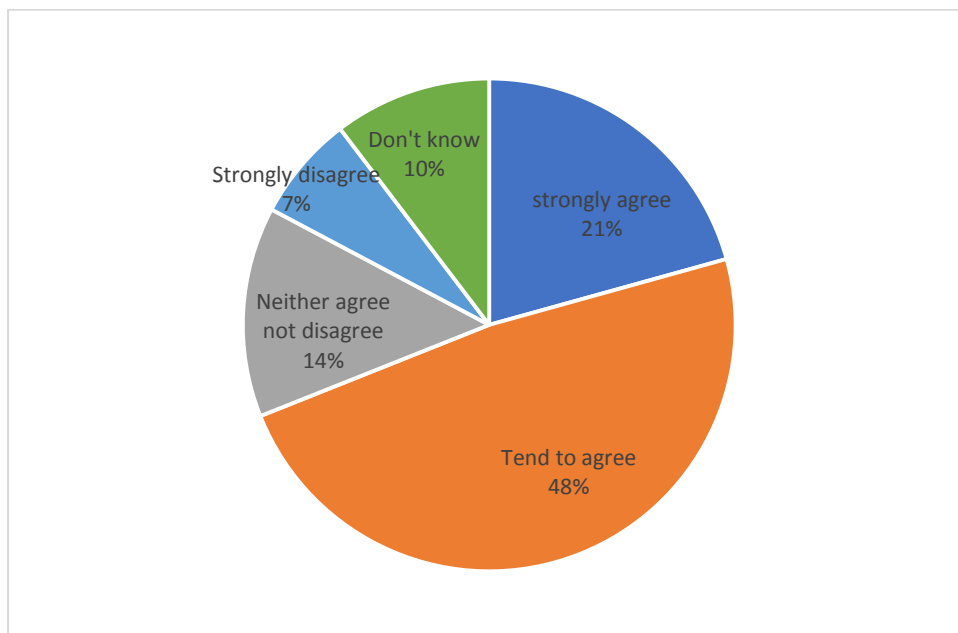


Figure 2 Breakdown of responses to Question 2

Respondents generally agreed that the DPP is consistent with the NPPF and other national guidance, with 69% agreeing or strongly agreeing with the statement. 14% of the respondents answered that they neither agree or disagree and 7% selected strongly disagree.

The comments provided from seven respondents indicated generally that the planning statement could demand more than stated within the NPPF.

A comment was received that the DPP does not consider water demand and consumption. Water supply matters are addressed through KCCs engagement with the water supply companies and is outside the remit of the DPP. Water supply issues are also addressed through Local Plan assessment.

There was a concern that the DPP does not reflect climate change allowances. SuDs Policy 5: Drainage Sustainability & Resilience requires that drainage design accommodates climate change allowance of 20% with a sensitivity analysis for climate change allowance of 40%. This approach was recommended by the Environment Agency.

KCC is actively working with the Environment Agency and other national bodies to promote sustainable and multi-functional approaches to surface water management and influence national policy on flood risk management.

We have provided response to two specific comments in Appendix 1.

Question 3. *To what extent do you agree or disagree that the Policy Statement clearly states Kent County Council's requirements for drainage submissions to support planning applications?*

29 responses were received. A breakdown is given in Figure 3.

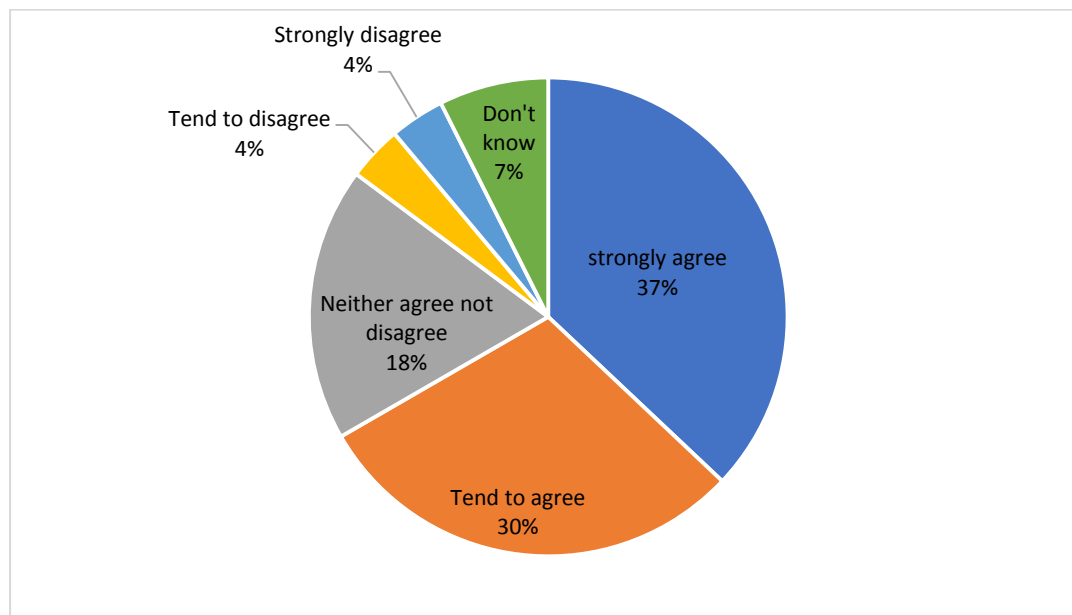


Figure 3 Breakdown of responses to Question 3

In total, 66% of respondents agreed or strongly agreed that KCC's requirements for drainage submissions were clearly stated in the policy statement, 17% neither agreed or disagreed and 7% of respondents disagreed.

A comment was received that drainage submissions do not account for change in land use and impacts on water supply. The DPP sets policy to protect water quality particularly below ground water supplies. The conversion of agricultural land to urban development may not necessarily impact infiltration to ground if a sustainable drainage approach is included within development design. The conversion of agricultural land itself is a planning matter and within the remit of the Local Planning Authorities.

A respondent indicated that areas where there are several developments should ensure that the cumulative impact of development is considered. Our policy is seeking to ensure surface water flow rates from proposed development is unchanged from pre-development conditions and therefore seeks to avoid cumulative increase in peak flow rates.

The NPPF under Paragraph 156 requires that "strategic policies should be informed by a strategic flood risk assessment....They should consider cumulative impacts in, or affecting, local areas susceptible to flooding." Kent's Local Planning Authorities are currently revising their Local Plans and should include a cumulative assessment in a wider catchment perspective and therefore address any residual risks of cumulative impact on surface water.

A respondent sought clarification on the relationship of the DPP to local policy set by local authorities. This DPP sets an approach to our requirements for drainage for all

of Kent. There are instances where local policy may be stricter and set discharge rates specifically given local conditions. In these instances, our Policy defers to any local policy. This is stated in Section 3.6.2.

We have provided responses to two specific comments in relation to cumulative considerations and culverting policy in Appendix 1.

Question 4. *Within Policy 6, we indicate that a Verification Report may be required after development completion, which outlines specific maintenance requirements and obligations for each drainage measure. To what extent do you agree or disagree that the Verification Report will improve the quality of sustainable drainage measures which are constructed?*

This question was answered by 29 respondents in total. A breakdown of their responses is given in Figure 4.

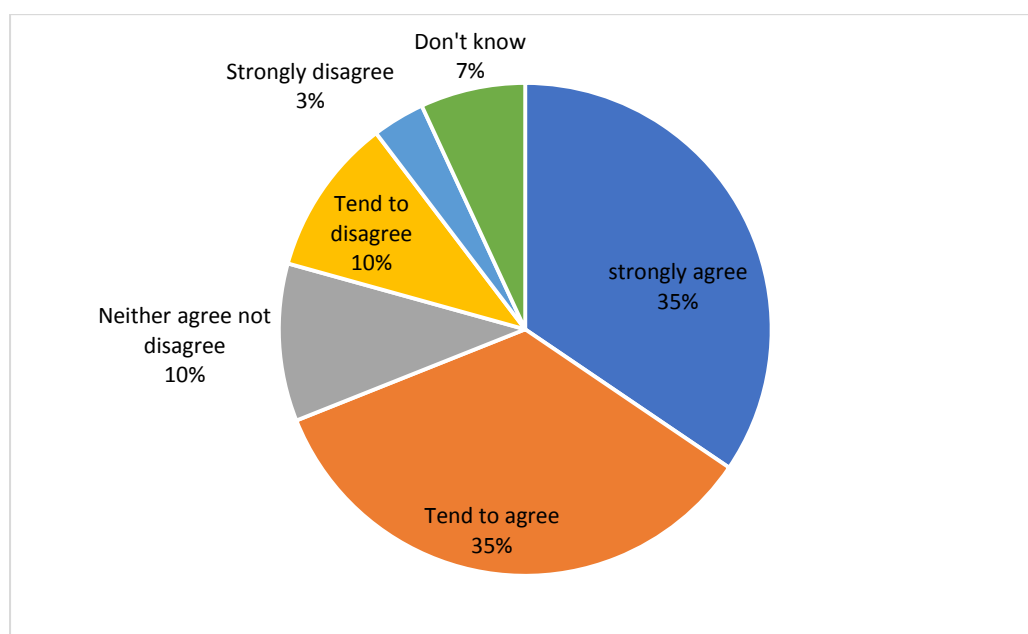


Figure 4 Breakdown of responses to Question 4

In total, 70% agreed or strongly agreed that the Verification Report improves the quality of sustainable drainage measures, 13% disagreed and 17% did not know or neither agreed or disagreed.

There is clearly strong support for this policy. Positive comments included:

This removes all potential uncertainty as to what information is required from developers. No excuse for inadequate supervision and delivery of measures on site

Such a report is vital.

Verification of such interventions is critical for this policy to be sustainable and bring about the benefits that it intends to.

There were three specific queries related to costing and timing of implementation. Our response to these are presented in Appendix 1.

Question 5. *Kent County Council have proposed in Policy 8 to promote the multi-functionality of sustainable drainage. To what extent do you agree or disagree that multi-functionality should be a high priority for delivery within sustainable drainage strategies?*

This question was answered by 28 respondents in total. A breakdown of their responses is given in Figure 5.

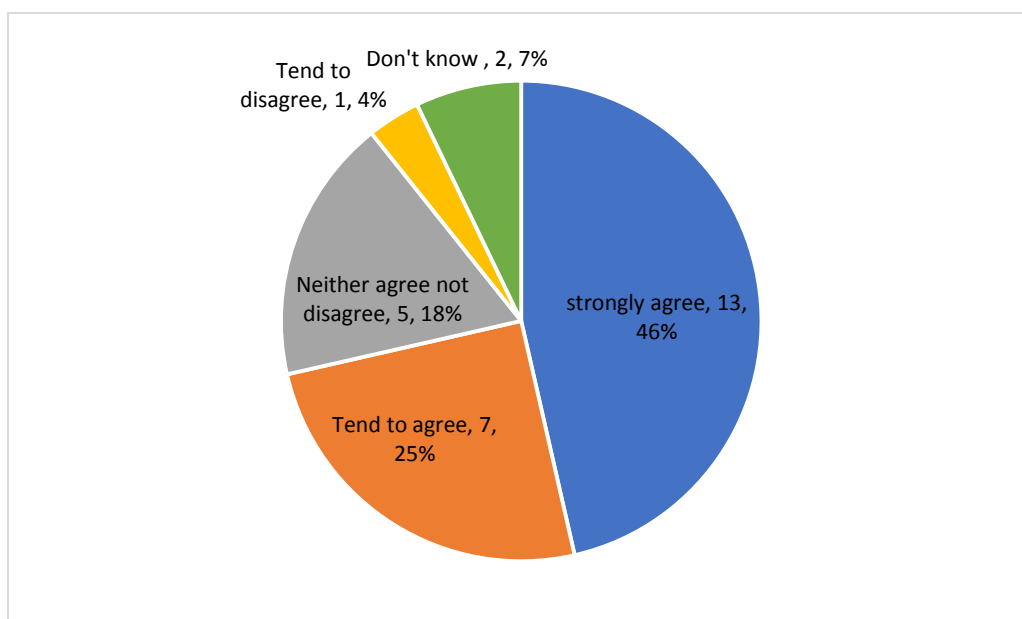


Figure 5 Breakdown of responses to Question 5

71% of respondents agreed or strongly agreed that multifunctionality is a priority for delivering SuDS, 18% neither agreed or disagreed, 7% did not know and only 4% of respondents disagreed.

Most comments supported the multi-functionality for SuDS.

Drainage ponds et cetera that can also be useable as wildlife sites and which also act as enhancing the beauty of developments is good.

...allowing water to disperse more naturally, than just 'down the drain', and anything that helps to make children (and adults) more aware of what happens around them is good.

One respondent noted that provision of sustainable drainage and multi-functionality may conflict with open space policy. We agree and are concerned that this may be the case, but this needs coordination and engagement with LPAs to deliver a wider strategic policy in relation to sustainable drainage in open space. This is outside the remit of our statutory consultee role but is a topic which will be progressed with the Local Planning Authorities in 2020.

Question 6. *Are there any other policies which should be included within the Policy Statement? Or policies which should be excluded from the Policy Statement? Please give details:*

Four responses were provided for this question with the following policy suggestions:

- a) **DPP does not assess water use, input and output in households** - This matter is outside our remit as statutory consultee for surface water drainage.
- b) **Cost implications of SuDS solutions** - As a statutory consultee in the planning process, we do not advise on costing implications as this is a matter to be addressed by the LPA through their viability assessments and through their responsibility for consideration of maintenance requirements.
- c) **Remedial works outside the proposed development** - SuDS Policy 4 states that “Remedial works and surface water infrastructure improvements may be identified in the immediate vicinity of the development as works associated with the proposed development to enable surface water discharge from the proposed development site.” If the works required are outside of the ownership of the applicant then it is agreed that they would not be included within the development description; however, improvements may need to be facilitated and agreed with third parties to ensure no obstructions or constriction on surface water discharge if it is demonstrated that a change in hydrology or hydraulics will occur.
- d) **Regular maintenance and cleaning schedule of existing drainage networks** - This matter is outside our remit as statutory consultee for surface water drainage.

- e) **Consideration of residual risks associated with surface water** - Our SuDS Policy 2 states that: “Drainage schemes should provide for exceedance flows and surface flows from offsite, ensure emergency ingress and egress and protect any existing drainage connectivity, so that flood risk is not increased on-site or off site.” We require that applicants assess the impact of the 1 in 100-year rainfall event including a climate change allowance of 40%. This enables an assessment for extreme events. If exceedance occurs, we request an exceedance plan. We therefore address matters in relation to residual risk within our remit.

Question 7. *Do you have any other comments about the Policy Statement?*

We received five comments to this question which required clarification for the respondents but did not contribute to any revisions to the document. These are summarised in Appendix 1.

Question 8. *Kent County Council have included some new policies to address how sustainable drainage is implemented. Would you be interested in further guidance or seminars in aspects of this Policy Statement?*

This question was responded to by 25 in total. Twelve respondents indicated that they would be interested in further guidance or seminars relating to the Policy Statement. Of these, nine fell into the category of parish councils and non-governmental organisations and the remaining were individuals.

4. Written responses

We received five written responses - three from local authorities, one sewerage undertaker and one technical organisation. We have summarised the substantive comments as follows:

- a) **We have had a request for clarification for attenuation policy** - KCC will require attenuation to be provided above or below ground, but controlled discharge must be provided. It is very important that if systems are below ground, a maintenance plan is provided, and inspections are undertaken.
- b) **It was recommended that the building envelope area for low risk development be reduced from 200m² to 100m² due to attenuation of the former still being significant in high intensity storms** - We recognise that for surface water management, significant impacts can occur from new impermeable areas greater than 100m², but this is not the case in all situations. We have therefore revised the response for low risk development situations to be more flexible.
- c) **There was recommendation that another calculation method be used to assess pipe-full capacity for the final 5m of an outfall pipe. This is relevant to peak flow of an existing drainage system** - We agree that reference to the capacity of the outfall pipe is important and should be considered for calculation of existing surface water drainage systems. The text where this is referenced has been revised.

- d) **Another recommendation is to reduce the threshold for submitting additional management controls to protect off-site water quality. We will reduce this threshold from 150 units to 50 units** - We have clarified when a Construction Management Plan is required. It is required for development, but additional information is required in sensitive locations. We have removed the threshold requirement.
- e) **A suggestion has been made to consider exceedance in two parts; very high intensity storms to ensure bypass flows from overloaded pipework (including potentially blocked gullies due to debris), and overfilling of storage systems** - We agree that this provides clarity as to the understanding of exceedance and have revised the text in this paragraph.

5. Revisions to the Policy

Following the review of comments we received we have revised our Policy Statement in the following sections:

- a) We have provided further clarification on suitable distances for connection into a sewer system before a combined sewer is agreed acceptable. For small developments surface water sewer connections should be assessed within 90m of the development site boundary.
- b) We have reduced our screening for low risk development to consider sites where additional impermeable area to less than 100m² but we have included this as a discretionary consideration; therefore, the distance of connection will be reviewed on an individual site basis.
- c) We have clarified our runoff requirements in 'low permeability soils' and emphasised designing for long term storage.
- d) We will consider exceedance in two parts; very high intensity storms to ensure bypass flows from overloaded pipework and overfilling of storage systems. This provides clarity as to the understanding of exceedance.
- e) The section on 'draw down time' has been removed as this is covered in Kent's Making It Happen technical guidance for Sustainable Drainage.
- f) In SuDS Policy 7 there is now reference to the CIRIA SuDS Manuals simple index approach which enables an assessment of the pollution hazard and value of mitigation provided by the sustainable drainage measure. This assessment may be required if the proposed development has the potential for pollution risk and/ or the downstream environment is particularly sensitive.
- g) We have clarified when a Construction Management Plan is required. It is required for development, but additional information is required in sensitive locations. We have removed the threshold requirement.

6. Equality analysis

Respondents were given the opportunity to comment on the initial Equality Impact Assessment. An EqlA is a tool to assess the impact any service change, policy or strategy would have on age, gender, gender identity, disability, race, religion or belief, sexual orientation, pregnancy or maternity, marriage and civil partnership and carer's responsibilities.

There were 14 responses to this question where 13 expressed surprise at the use of an EqlA for this document and did not think it was necessary. We found that no impacts or substantive comments were identified, so there is no need to amend the EqlA.

We asked standard 'about you' questions and out of the 29 respondents, only 16 were willing to answer these questions; as the questionnaire progressed, fewer than half of this number actually responded to the questions. Due to the nature of this consultation, a lot of respondents were commenting on behalf of an organisation so were not willing to provide a response in this section. The results have highlighted nothing new for our equality analysis.

7. Next steps

The revised DPP, this consultation report and the EqlA will be presented to the Environment and Transportation Cabinet Committee on 22 November. Following this, the Policy Statement will be adopted by the Cabinet Member for Planning, Highways, Transport and Waste.

This consultation report will be made available on the consultation webpage and an email alert sent to those who registered with the consultation.

Once the final DPP has been adopted it will be available on our website.

Appendix 1

Question 2. *To what extent do you agree or disagree that the Policy Statement is consistent with the NPPF and other national guidance for surface water management requirements for new development?*

KCC's response:

<p>A respondent stated that there is not clear understanding to assess the impact of the policy.</p>	<p><i>Verification reports have been implemented to overcome issues in relation to implementation and to address modifications that may be necessary to drainage schemes on an individual basis. The overall policy will be assessed biennially and reviewed when National policy or other relevant policy changes occur. This will be reflected in the DPP.</i></p>
<p>A respondent states that Paragraphs 158 to 162 of the NPPF set out the requirements for an Exception Test and Sequential Test. They state that it might be beneficial to reference the requirement to manage and reduce flooding, in-relation to the Exception Test as this is crucial for ensuring the safe/sustainable development of areas at risk of flooding.</p>	<p><i>We do not make reference to the Exception or Sequential Test when considering surface water drainage provisions. These tests are set out by the Environment Agency and are not in our remit as a statutory consultee.</i></p>

Question 3. *To what extent do you agree or disagree that the Policy Statement clearly states Kent County Council's requirements for drainage submissions to support planning applications?*

KCC's response:

<p>A question was raised as to the practicalities of culverting policy as provided under SuDS Policy 3. There was concern raised in relation to lengths of watercourse between property accesses.</p>	<p><i>We would highlight that any reversion back to open channel is considered from practicability and feasibility. Culverting is considered on a case by case basis, but we feel that our policy addresses this.</i></p>
<p>A question was raised in respect to ground investigation for deep bore soakaways and ensuring developers follow the drainage hierarchy.</p>	<p><i>Technical approach to ground investigation and determination of discharge destinations is covered in Kent's Making It Happen technical guidance for Sustainable Drainage.</i></p>

Question 4. *Within Policy 6, we indicate that a Verification Report may be required after development completion, which outlines specific maintenance requirements and obligations for each drainage measure. To what extent do you agree or disagree that the Verification Report will improve the quality of sustainable drainage measures which are constructed?*

KCC's response:

<p>A query has been raised as to whether KCC policy should include an assessment of costs and impacts on future maintenance.</p>	<p><i>Consideration of cost is within the remit of the LPA to assess as part of the overall development viability. However, as is demonstrated by the inclusion of a verification report within our policy, we recognise that implementation and maintenance are key issues. We will seek to address maintenance issues in coordination with the LPAs.</i></p>
<p>A query was raised as to the timing of provision of the verification report.</p>	<p><i>The verification report is required to be provided prior to occupation or <u>at an agreed schedule</u>. We recognise that large phased developments will have occupation occurring from early stages and that the verification requirement needs to reflect building schedules. This is to be agreed when phasing and delivery is defined.</i></p>
<p>A respondent also provided a query about maintenance funding and suggested a revised text that additionally requires agreements for the funding and undertaking of the maintenance activities.</p>	<p><i>The Ministerial Statement of December 2014 stated that LPAs have the responsibility for ensuring ongoing maintenance of sustainable drainage systems. We agree that the current institutional framework for ensuring provision of maintenance into the future may not be sufficient, but it is outside the remit of this current policy.</i></p>

Question 8. Do you have any other comments about the Policy Statement?

KCC's response:

A comment was made regarding KCC putting all local drainage systems on file including road drainage to the public in order for developers and the general public to check for any future problems with a development.	<i>This is not in the scope of this consultation</i>
A comment was made stating that Parish and Town Councils should be given the opportunity to directly comment on minor developments and effects on existing drainage infrastructure which is not in our remit as a Statutory Consultee	<i>The opportunity for Parish Councils to comment on minor applications is a matter that should be taken up with the Local Planning Authority.</i>
A query stated that the Policy Statement requires development proposals to account for a percentage of urban creep. They stated that no evidence has been provided to justify the need to accommodate future development on plot at the levels proposed.	<i>Percentages are those proposed in Non-Statutory guidance. 10% is recommended for housing to include extensions and patios. Greater housing footprint cannot accommodate increases in impermeable areas because of density, so the allowance is lower. This is included based on good practice.</i>
Anti-pollution measures to prevent soil and river contamination	<i>We address water quality considerations within SuDS Policy 7 and require the submission of a Construction Management Plan. This has been clarified within the informative text of SuDS Policy 7.</i>
The role of Neighbourhood Plans	<i>We recognise that Neighbourhood Plans have the potential to inform approaches to surface water management within local areas. It is important that they include local information, knowledge and direction on how surface water should be managed. Planning applications could then refer to Neighbourhood Plans to demonstrate appropriate and effective drainage delivery.</i>