

# **Municipality Of Chatham-Kent**

## **Community Development**

### **Planning Services**

#### **Information Report**

**To:** Members of the Natural Heritage Committee of the Whole

**From:** Ryan Jacques, MCIP, RPP  
Director, Planning Services

**Date:** December 6, 2021

**Subject:** Natural Heritage Planning under the Provincial Policy Statement

---

This report is for the information of the Natural Heritage Committee of the Whole.

#### **Background**

The Planning Act is provincial legislation that sets out the ground rules for land use planning in Ontario. It describes how land uses may be controlled, and who may control them. The Planning Act set out that decisions made by Municipalities affecting planning matters 'shall be consistent with' policy statements issued under the Act.

The Provincial Policy Statement (PPS) is issued under the Planning Act. The PPS:

- Provides policy direction on matters of provincial interest related to land use planning and development.
- Sets the policy foundation for regulating the development and use of land.
- Provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.
- Supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The PPS and Chatham-Kent Official Plan provide a framework for comprehensive, integrated, place-based and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term.

The Chatham-Kent Official Plan is the most important vehicle for implementation of the PPS and for achieving comprehensive, integrated and long-term planning. Under the PPS, the Official Plan shall identify provincial interests and set out appropriate land use designations and policies.

The Provincial Policy Statement (PPS) states that official plans shall be up-to-date and provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

Zoning is also important for implementation of the PPS. It states that Municipalities shall keep their zoning by-laws up-to-date with their official plans and the PPS.

Land use planning is only one of the tools for implementing provincial interests. A wide range of legislation, regulations, policies and programs may apply to decisions with respect to Planning Act applications and affect planning matters.

### Natural Heritage Planning under the Provincial Policy Statement

The PPS is more than a set of individual policies. It should read in its entirety and the relevant policies applied to each situation. For the purposes of the Natural Heritage Committee of the Whole process, it is most important to identify some of the specific natural heritage policies and definitions under the PPS.

In the definitions and policies below, italicized terms are defined in the PPS.

Definitions include:

**Development:** means the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process;
- b) works subject to the *Drainage Act*;

**Site alteration:** means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

**Negative impacts:** degradation that threatens the health and integrity of the natural features or *ecological functions* for which an area is identified due to single, multiple or successive *development* or *site alteration* activities.

Policies include:

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term *ecological function* and biodiversity of *natural heritage systems*, should be maintained, restored or, where possible, improved, recognizing linkages between and among *natural heritage features and areas*, *surface water features* and *ground water features*.

2.1.3 *Natural heritage systems* shall be identified in Ecoregions 6E & 7E1, recognizing that *natural heritage systems* will vary in size and form in *settlement areas, rural areas, and prime agricultural areas*.

2.1.5 *Development and site alteration* shall not be permitted in:

- b) *significant woodlands*
- c) *significant valleylands*
- d) *significant wildlife habitat*;
- e) *significant areas of natural and scientific interest*; and
- f) *coastal wetlands* -

unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*.

2.1.7 *Development and site alteration* shall not be permitted in *habitat of endangered species and threatened species*, except in accordance with *provincial and federal requirements*.

2.1.8 *Development and site alteration* shall not be permitted on *adjacent lands* to the *natural heritage features and areas* identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated that there will be no *negative impacts* on the natural features or on their *ecological functions*.

2.1.9 Nothing in policy 2.1 is intended to limit the ability of *agricultural uses* to continue.

As outlined by the above policies, it is the Province's position that woodlands and habitat will be evaluated prior to a decision by the Municipality regarding development or site alteration at these locations.

### **Comments**

The Chatham-Kent Official Plan contains policies to address the protection and enhancement of the natural environment. These policies were initially established by the Ontario Ministry of Municipal Affairs and Housing (MMAH) through the approval of the Chatham-Kent Official Plan in 2008. Specifically, these policies were implemented by way of Minister modifications by MMAH to the Council adopted Official Plan (adoption occurred in 2005).

The next major update of the Official Plan concluded in 2015 with the MMAH approval of Official Plan Amendment No. 28 (OPA 28). OPA 28 was the culmination of a year long planning process to update the Official Plan.

MMAH is on record prior to its approval of the Official Plan in 2015 advising Chatham-Kent that there are areas of the Provincial Policy Statement not adequately addressed, which must be considered. These comments are outlined in a letter from MMAH dated November 10, 2014, attached as Appendix A.

The letter specifically identifies:

*Natural Heritage Systems approach*

*Although many of the natural heritage features are identified in the Chatham-Kent Official Plan, the Plan does not identify a natural heritage system, including the linkages and corridors, as required in Section 2.1.3 of the PPS [2014]. The background research needed to identify the locations and linkages has not been completed; therefore the Ministry cannot include such a change as a Ministry modification...*

The comments in the letter also address new policies adopted by Chatham-Kent to facilitate severances of woodlots, which were removed by Ministry modification upon approval. Through the letter, references are made to future planning decisions regarding initiatives to retain and restore natural areas.

In 2022, Chatham-Kent will initiate work on an Official Plan update, which could take the form of a new Official Plan. In preparing an updated or new Official Plan, Chatham-Kent must consider its conformity with the Provincial Policy Statement.

The Province, through the Minister of Municipal Affairs and Housing, is the approval authority for an updated or new Official Plan. The outcome of the Natural Heritage Committee of the Whole, and subsequent implementation measures, if any, will serve to inform the Official Plan work and assist in meeting the Municipality's obligations to conform to provincial policy. Natural heritage planning will form part of the broad community consultation to occur over the next term of Council, which will be an opportunity for further public participation on any item dealt with by this Committee.

**Consultation**

There was no consultation required for the preparation of this report.

**Financial Implications**

There are no financial implications resulting from this Report.

Prepared by:

  
Ryan Jacques, MCIP, RPP  
Planning Services

Reviewed by:

  
Bruce McAllister, MCIP, RPP  
General Manager  
Community Development

Appendix A – Letter from Ministry of Municipal Affairs and Housing to Chatham-Kent dated November 10, 2014

P:\RTC\Community Development\2021\Planning Services\Dec 13 COTW\Dec 13-21 Natural Heritage Planning under the Provincial Policy Statement.docx

## APPENDIX A

Ministry of  
Municipal Affairs  
and Housing

Municipal Services Office -  
Western

659 Exeter Road, 2<sup>nd</sup> Floor  
London ON N6E 1L3  
Tel. (519) 873-4020  
Toll Free 1-800-265-4736  
Fax (519) 873-4018

Ministère des  
Affaires municipales  
et du Logement

Bureau des services aux municipalités -  
région de l'Ouest

659, rue Exeter, 2<sup>e</sup> étage  
London ON N6E 1L3  
Tél. (519) 873-4020  
Sans frais 1 800 265-4736  
Télééc (519) 873-4018



November 10, 2014

Ms. Judy Smith  
Manager, Municipal Governance, Clerk  
Municipality of Chatham-Kent  
311 King Street W., P.O. Box 640  
Chatham, ON, N7M 5K8

**Subject: Council-Adopted Official Plan Amendment No. 28  
to the Municipality of Chatham-Kent Official Plan  
Ministry File No.: 34-OP-4000-028**

Dear Ms. Smith:

This letter is further to the submission of the Council-adopted Official Plan Amendment No. 28 (OPA 28) to the Ministry for review and approval. We note that the purpose of OPA 28 is to incorporate changes to the Chatham-Kent Official Plan as a result of the "five year" review contemplated by the *Planning Act*.

When reviewing and making decisions on land use planning applications, all approval authorities are responsible for the consideration of the Provincial interests as set out in Section 2 of the *Planning Act*. This Section directs that planning decisions be consistent with the policy statements issued under Section 3 of the *Planning Act*. The current provincial policy on land use planning matters in Ontario is the Provincial Policy Statement, 2014.

It is noted that the OPA 28 was adopted by Council in November 2013 when the Provincial Policy Statement (PPS) 2005 was in effect. After adoption, the PPS 2014 came into effect on April 30, 2014. The PPS 2014 has no transition provisions. Section 4.1 of the PPS 2014 states that the Policy Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter made on or after April 30, 2014. Therefore, the Ministry is reviewing and is obligated to approve this amendment under the PPS 2014.

The OPA 28 was circulated by this Ministry to Provincial Ministries and the Conservation Authorities for review. A post-circulation letter was sent to Municipal staff on May 13, 2014. The review of the amendment, in consultation with Chatham-Kent Planning Staff, has now been completed and we are now in a position to finalize a decision on the amendment, pursuant to subsection 17(34) of the *Planning Act*. However, before a decision is made, we wish to advise the Municipality of the proposed modifications in the attached "Draft Decision" document, so that you may obtain the concurrence of Council in advance of the Ministry decision.

Also attached is a matrix summarizing the comments and describing how they have been addressed to date, with the modification numbers included, as appropriate.

The following matters are highlighted for the Municipality's consideration.

**Agricultural Land Uses and Minimum Lot Size**

Chatham-Kent staff note that the timeline of the Official Plan review (initiated in September 2012 and adopted in November of 2013) did not provide for review under the PPS 2014. The PPS 2014 provides new policies and definitions for rural areas and the elements within those areas to assist and clarify policies for the purposes of land use planning. Staff indicated that Chatham-Kent intends to review these policies in the future, with consideration for on-farm diversified uses, agri-tourism, agricultural-related uses, and specialty crop areas. We encourage the Municipality to undertake a review the policies and to re-consider the minimum lot size for agricultural parcels, as indicated in Item 30 of the attached matrix.

**Natural Heritage Systems approach**

Although many of the natural features are identified in the Chatham-Kent Official Plan, the Plan does not identify a natural heritage system, including the linkages and corridors, as required in Section 2.1.3 of the PPS. The background research needed to identify the location of linkages and corridors has not been completed; therefore, the Ministry cannot include such a change as a Ministry modification.

In response to this comment, Chatham-Kent staff noted that the final background Policy Audit to the Comprehensive Official Plan Review dated October 10, 2013 and forming part of the Planning Report to the OPA 28, included the following action which is needed to address the PPS:

*"Consider the need for a more detailed Natural Heritage System Study in order to further identify natural heritage systems within Chatham-Kent and to develop more detailed recommendations and strategies for the long term protection and restoration of the natural heritage."*

Chatham-Kent staff further note that, through carrying out the Natural Heritage Implementation Strategy, Chatham-Kent may introduce an Official Plan Amendment in the future to identify natural heritage corridors and linkages in the Official Plan to more completely address Section 2.1.3 of the PPS. We strongly support such further studies and actions to be taken by the Municipality, in order to ensure that the Official Plan is consistent with section 2.1.3 of the PPS 2014.

**Woodlands Consent Policies**

Ministry modifications are proposed to remove policies 3.10.2.18.2 f) and 4.4.2.2.16 which would permit woodlands to be severed from farm parcels. Section 2.3.4.1 of the PPS 2014 only permits lot creation in prime agricultural areas for specific situations which are:

- a) agricultural uses
- b) agriculture-related uses
- c) a residence surplus to a farming operation; and
- d) infrastructure.

Therefore, based on the PPS, there are no provisions to create lots in prime agricultural areas for natural heritage (woodlands) purposes. In addition, the PPS 2014 does not include a policy framework to permit lots to be created within a Natural Heritage-type designation. Consequently, it is recommended that the woodlands consent policies be deleted, as they are not consistent with Section 2.3.4.1 c) of the PPS (Ministry modification Nos. 15 and 31).

It is noted that even though the woodlands consent policies cannot be supported, we encourage the Municipality to continue to explore tools and opportunities to retain forest cover and support efforts to restore natural heritage features and areas across the Municipality. It is noted that in 2014, Chatham-Kent committed to a Natural Heritage Implementation Strategy. This strategy includes in its business plan one new staff person to compile data for Chatham-Kent and the

Lower Thames Valley Conservation Authority regarding Natural Heritage Inventories, Woodlots, and land stewardship projects. After this information is compiled, we recommend that the Municipality should, in consultation with the Conservation Authorities and the Ministry of Natural Resources and Forestry, consider ways in which to retain forest cover, and restore natural heritage areas; and, if appropriate, initiate an Official Plan Amendment in the future to support such initiatives.

#### **Chatham Settlement Area expansions**

Justification under the PPS must be provided for settlement boundary expansions. Through this amendment, there are two settlement boundary expansions proposed to the Chatham settlement area (consisting of the Power Centre and the Links of Kent lands). The information and analysis undertaken as part of the Municipal Official Plan review does not demonstrate growth projections or land needs that support the identification of new or expanded settlement areas. As justification has not been provided, it is recommended that the expansions be deleted by Ministry modification No. 45.

#### **Schedule A3, Special Policy Area**

New residential lots in prime agricultural areas are not permitted under Section 2.3.4 c) of the PPS, unless the lots are for dwellings which are surplus to a farming operation. Therefore, it is recommended that the special policy area (Item 129 t)) which would permit residential development in a prime agricultural area be deleted by Ministry modification No. 44.

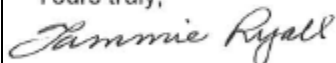
#### **Conclusion**

I would like to thank Marsha Coyne, Ryan Jacques, and, previously Ralph Pugliese, for meeting with me and the partner Ministry and Conservation Authority staff to discuss the comments on the OPA 28 over the past months. These discussions have been most helpful in resolving many of the comments and coming to agreement on many of the issues.

We look forward to receiving a Council resolution, indicating Council's endorsement of the modifications. As well, we request that the Municipality provide revised Land Use Schedules, and updated settlement boundary adjustment information, as described in the attached matrix and in the Draft Decision.

Please contact me if you have any questions. I can be reached by telephone at 519-873-4031 or by e-mail at [tammie.ryall@ontario.ca](mailto:tammie.ryall@ontario.ca).

Yours truly,



Tammie Ryall, MCIP, RPP  
Planner  
Municipal Services Office –Western

cc Don Shropshire, C.A.O., Municipality of Chatham-Kent  
Marsha Coyne, Acting Director of Planning Services, Municipality of Chatham-Kent  
Bruce McAllister, Dillon  
Drew Crinklaw, OMAFRA, London  
Heather Riddell, MNR, Aylmer  
Jodie Lucente, MTO, London  
Joe Muller, MTCS, Toronto  
Craig Newton, MOE, London  
Val Towsley, Lower Thames Valley Conservation Authority  
Patty Hayman, St. Clair Region Conservation Authority  
Attachment