

3. THE ENVIRONMENT

THE BUILT ENVIRONMENT

POLICY BE1 – ENVIRONMENTAL AND COMMUNITY INFRASTRUCTURE

Objections 104/146 & 157, 276/422, 280/426, 281/431, 374/596, 517/812, 522/831, 523/839, 552/962, 554/990, 571/1121, 577/1165, 578/1222, 595/1349, 607/1386, 622/1424, 577/3637, 576/3479

Issues

- (a) Should all housing and building proposals be put on hold until infrastructure is in place?
- (b) Whether the policy accords with the advice in Circular 1/97.
- (c) Whether the policy should recognise that redevelopment of sites may involve significant costs.
- (d) Does the policy prevent applications being made under the Prior Notification Procedure?
- (e) Should paragraph 2.2 include a reference the Plan’s strategy of guiding development to Group C settlements?
- (f) Whether the policy should apply basic criteria to all development.
- (g) Should the plan include a policy relating to Environmental Assessments?
- (h) Should paragraph 2.4 be strengthened by substituting ‘will include’ for ‘may well include’?

Conclusions

3.1 The plan must allocate land for housing to meet the Structure Plan requirement and it is not possible to impose an embargo on any new development. (1424) The policy should ensure that development would not proceed unless any necessary infrastructure is in place or is in the pipeline.

3.2 Circular 1/97 advises that developers should not be expected to pay for facilities needed to resolve existing deficiencies and I see nothing in the policy to conflict with this advice. (596) The development plan should be read as a whole and the duplication of Policy G3 of the Structure Plan is unnecessary. (422, 426, 831, 839) There will be many occasions when a planning obligation is not necessary and, when they are, the type of infrastructure required will change from case to case. It would be better, therefore, to indicate in paragraphs 2.4 and 2.5 that obligations may rather than will include certain things. (1386)

3.3 Notwithstanding the above, I agree with the House Builders Federation that the penultimate sentence of paragraph 2.4 does not reflect the advice in paragraph

B17 to Annex B of Circular 1/97. (1121) Amendment No. 6 addresses the County Council’s request for amendments to paragraph 2.5. (1165) The list of works, services and facilities is extensive but provided the tests in paragraph 7 of the Circular are met, I see no reason why the Council should not seek them where appropriate. (812, 1121, 3479)

3.4 Amendment No. 5 recognises that the ability to contribute to necessary infrastructure will depend in part on the costs of development. This is a realistic approach and I see no reason to remove reference to the costs of delivering development (812, 990, 3637). Unless it accords with the advice in paragraph B14 of Annex B to the Circular, an obligation requiring the costs of maintenance is likely to be unacceptable as is a requirement for post development monitoring. (831, 962)

3.5 English Nature’s concerns regarding environmental assessments and mitigation are satisfactorily addressed by Amendment No. 7. (157) Policy BE2 sets out a number of criteria relating to the impact of development on the natural environment and this and other policies will protect these interests. I see no reason to duplicate these in Policy BE1 nor do I consider it necessary to refer to the housing strategy in paragraph 2.2. (146, 1222)

3.6 The policy would cover the provision of health care facilities and will not be able to operate effectively if the Council do not work closely with statutory undertakers and other service providers. (431, 1489) A Local Plan cannot be used to prevent farmers from seeking prior approval for development permitted under Part 6 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995. (1349)

RECOMMENDATIONS

- 3.7 **R3.1 Make no modification to Policy BE1.**
- 3.8 **R3.2 Make no modification to paragraph 2.2.**
- 3.9 **R3.3 Delete the penultimate sentence of paragraph 2.4.**
- 3.10 **R3.4 Replace ‘will’ with ‘may’ in the last sentence of paragraph 2.5.**
- 3.11 **R3.5 Make no modification with respect to the inclusion of a policy relating to Environmental Assessments.**
- 3.12 **R3.6 Make no modification with respect to the inclusion of a policy relating to the provision of health care facilities.**

POLICY BE2 – GENERAL DEVELOPMENT STANDARDS

Objections 84/105, 104/164, 166, 512/790, 558/1053, 570/1110, 571/1122, 576/1160, 577/1172, 594/1335, 1336, 595/1350, 623/1430, 640/1467, 623/3402

Issues

- (a) Whether this and other policies are drafted in a negative manner.

- (b) Whether the policy should refer to the residential densities set out in PPG3.
- (c) Should a distinction be made between ‘open countryside’ and ‘countryside’?
- (d) Whether paragraph 2.17 and any recycling strategy should take account of the needs of people with disabilities.
- (e) Whether the policy should be expanded to include reference to water efficiency as well as energy efficiency.

Conclusions

3.13 Although listed as an objection to Policy BE2, the House Builders Federation’s objection also relates to other policies in the plan considered to be worded negatively. (1122) This and other policies say that proposals will only be permitted if certain criteria are met. Setting out criteria in this way is not entirely negative and I am prepared to accept it.

3.14 It is not necessary to duplicate the guidance in PPG3 regarding density. (790) New development need not match the density of its surroundings in order to respect them and amendment no. 10 makes useful reference to Policy H3. Nevertheless, Policy BE2(a) read together with the penultimate sentence of paragraph 2.10 would enable the Council to permit development below the range set out in PPG3. (1110) The requirement for new development to respect the existing scale, pattern and character of an area is sufficient and the word density in Policy BE2(a) is unnecessary.

3.15 Amendment no. 12 addresses English Nature’s concern that landscape schemes should include native species. (166) Criterion (d) is sufficient to ensure that geological as well as other important features are protected. (164) Amendment nos. 8 and 17 will ensure that the needs of all sectors of the community are taken into account when considering new development. (1335, 1336) There is nothing to say that innovative design should relate only to the appearance of a building and not to the materials used in its construction (amendment no. 9). (1053, 1172, 1467)

3.16 Composting is referred to in paragraph 2.22 and I see no reason to expand upon that paragraph. Nor is it appropriate to include reference to matters of detail such as the use of sprinklers for the prevention of fire, (1172) Amendment no. 11 clarifies what is meant by open countryside. (1160)

3.17 Amendment no. 14 encourages development to include measures to improve water efficiency. (1430) The County Land and Business Association object to this policy on the same grounds as Policy BE1, the response to which is set out in paragraph 3.6 above. (1350) Paragraph 2.22 seeks to ensure that thought is given to measures to facilitate effective recycling and disposal of waste in all new developments. It does not propose the siting of waste disposal sites nor does it suggest that people will be asked to transport their waste to a central point. (105) I deal with objections relating to amendment no. 13 and the omission of a policy relating to utility infrastructure under Policy NE10.

RECOMMENDATION

3.18 R3.7 Delete ‘density’ from Policy BE2(a) and delete the penultimate sentence of paragraph 2.10.

POLICY BE3 – PROVISION FOR MOVEMENT AND PARKING

Objections 84/106, 302/493, 494 & 495, 526/870, 552/963, 577/1211, 594/1337 & 1339, 595/1351, 554/3422

Issues

- (a) Whether an integrated transport strategy is required.
- (b) Whether any transport infrastructure deficit in Witney should be addressed before further development is contemplated.
- (c) Are criteria (b) and (d) sufficiently precise?
- (d) Whether the policy should be broadened to include all land uses.
- (e) Should reference be made to the needs of drivers with disabilities, especially in relation to parking standards?
- (f) Whether paragraph 2.26 conflicts with the guidance regarding maximum parking standards set out in PPGs 3 and 13.

Conclusions

3.19 Exactly what the Town Council mean by ‘a huge transport infrastructure deficit in Witney’ is not clear but I address all objections relating to the transport strategy for Witney in Chapter 9. (963) I see nothing in the policy or its reasoned justification which conflicts with the advice on transport in rural areas in PPG13 and the appropriate vehicle for a District wide strategic transport policy is the Structure Plan. (106, 1351)

3.20 The Highways Agency’s complaint that no reference is made to the impact of development on the trunk road has been superseded by the change in status of the A40. (493, 494) However, I agree that the use of the word ‘satisfactory’ in criteria (b) and (d) is likely to lead to problems of interpretation and should be deleted. (495)

3.21 The need for proposals which would have a significant impact on the highway network to be accompanied by a Transport Assessment derives from PPG13. Paragraph 23 of PPG13 envisages that Transport Assessments may be required for small schemes and I agree with the Council (CD1/27) that it would be difficult to define ‘significant’ as this will depend on the circumstances of each case. (870)

3.22 The standards set out in Appendix Two are expressed as a maximum but those relating to residential development would allow developers to provide more than the average 1.5 spaces per dwelling set out in PPG3. So, contrary to the first sentence of

paragraph 2.26, the standards do not take account of current Government advice. The standards also differ with respect to the thresholds to be applied to some forms of development but the residential standard is significantly out of step with national guidance and I recommend in R4.28 that it be modified. Nothing in paragraph 60 of PPG3 says that any significant reduction below the maximum standard must be justified. Indeed, the PPG advises that developers should not be required to provide more spaces than they wish. I consider that should the Appendix and paragraph 2.26 (amendment no. 16) remain unchanged there is a significant danger that the policy will undermine the drive to create sustainable residential environments. (3422)

3.23 I recommend (R4.26) that Note 6 to Appendix Two be modified to state that provision should be made for car parking spaces for disabled motorists wherever conventional parking spaces are provided. (1337, 1339)

3.24 PPG13 states that new development should provide the right conditions to encourage walking, cycling and the use of public transport and, in order to facilitate this, people should come before traffic. As drafted the policy gives the impression that this objective is less important outside predominantly residential areas and I agree with the County Council that the policy should be modified. (1211)

RECOMMENDATIONS

- 3.25 **R3.8 Delete ‘Within predominantly residential areas’ from the second sentence of Policy BE3.**
- 3.26 **R3.9 Replace ‘satisfactory and safe’ with ‘safe and convenient’ at the beginning of Policy BE3(b).**
- 3.27 **R3.10 Delete ‘satisfactory’ at the beginning of Policy BE3(d).**
- 3.28 **R3.11 Delete the last four sentences of paragraph 2.26 (amendment no. 16).**

POLICY BE4 – OPEN SPACE WITHIN AND ADJOINING SETTLEMENTS

Objections 104/167, 168, 316/519, 568/1103

Issues

(a) Whether the Policy precludes development of any undeveloped land and whether it should apply to ‘significant’ open spaces which should be defined on the Proposals Map.

(b) Whether the Policy should acknowledge that the development of part of an area of open space can create the opportunity to improve overall provision.

Conclusions

3.29 At the time of the Inquiry the Council had not completed a local assessment of open space as required by PPG17. The purpose of an assessment is set out in the companion guide to the PPG and it would not necessarily identify all spaces that contribute to the setting of a town or village. To undertake such an assessment in a district the size of West Oxfordshire would be a mammoth task. Not least because, for the exercise to have any use, they would need to be plotted on a map (the Proposals Map is at too small a scale) and their attributes described in order to provide a basis for any development proposals to be assessed. I do not consider it to be necessary or practical to identify and define significant open areas. (519)

3.30 The policy, rightly in my view, adopts a criteria based approach but as drafted it is inadequate in that it seeks to preclude the development of all open areas whether they make a positive contribution or not. The test should be whether a development would result in the loss or erosion of a space which makes a significant or important contribution to distinctiveness of a settlement and/or the visual amenity of a locality. The modification I recommend to this policy would be compatible with the modifications I recommend to Policies H6 and H7 (R5.15).

3.31 The policy was written before the latest revision to PPG17. The PPG does not preclude development of open spaces and acknowledges that the development of some areas can provide opportunities to improve open space provision. The Council accept (CD1/27) that such situations will arise but this is not reflected in the policy. I consider that it should be modified to take account of current national guidance. (1103) The concerns of English Nature are addressed by amendment no. 18. (167, 168)

RECOMMENDATIONS

- 3.32 **R3.12 Modify Policy BE4 and its reasoned justification to reflect the advice in paragraphs 12 and 13 of PPG17.**
- 3.33 **R3.13 Replace ‘contributes to’ with makes an important contribution to’ in Policy BE4(a).**

POLICY BE5 – CONSERVATION AREAS

Objections 163/266, 316/520, 523/841, 554/991, 558/1054, 589/1296, 504/3531

Issues

- (a) Whether the policy accords with the advice in PPG15.
- (b) Should the policy recognise that new development, alterations to and the demolition of buildings may enhance a conservation area.
- (c) Whether a policy should be included in the plan setting out the criteria for the designation and review of new and existing conservation areas.

(d) Whether a policy should be included in the plan to prevent the alteration of non listed buildings in conservation areas.

Conclusions

3.34 PPG15 leaves no room for doubt that in the exercise of planning functions attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The policy makes no reference to appearance and the Council’s argument that the policy has operated successfully in the past does not alter the fact that the policy does not accord with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. (520)

3.35 However, add the words ‘or appearance’ after each ‘character’ and the policy generally accords with the advice in PPG15. The policy does not seek to preclude new development or the demolition of buildings within conservation areas. New development and demolition can preserve or enhance the character or appearance of conservation areas but I do not consider it necessary for the policy to go further than it does. (841, 991)

3.36 Nor does it preclude changes to major land uses and I agree with the Council that it is not necessary to define the term (CDI/27). Nevertheless, I consider the final sentence of the policy to be superfluous as the necessary control is embodied in the preceding text. (1296)

3.37 Amendment no. 19 addressed the objection of English Heritage (266) but that change attracted an objection from GOSE. (3531) PPG15 indicates that plans should set out broad criteria for the designation and review of new and existing conservation areas. To my mind this should be a statement of policy and a reference to PPG15 as suggested by PIC 3.1 is not sufficient.

3.38 Any development requiring planning permission or conservation area consent should be considered against the policies in the plan and national guidance set out in PPG15. Certain works including alterations, extensions and garden buildings will either not be classed as development or will be permitted under the Town and Country Planning (General Permitted Development) Order 1995. Such works will not require planning permission and so, unless affected by an Article 4 Direction restricting such rights, they will not be subject to the policies in this plan. (1054)

RECOMMENDATIONS

3.39 **R3.14 Insert ‘or appearance’ after ‘character’ in the first and second sentences of policy BE5 and in the last sentence of paragraph 4.3.**

3.40 **R3.15 Delete the last sentence of Policy BE5.**

3.41 **R3.16 Do not modify the plan as suggested by PIC 3.1**

3.42 **R3.17 Introduce a new policy setting out broad criteria for the designation and review of new and existing conservation areas.**

POLICY BE7 – ALTERATIONS AND EXTENSIONS TO LISTED BUILDINGS

POLICY BE8 – DEVELOPMENT AFFECTING THE SETTING OF A LISTED BUILDING

POLICY BE9 – CHANGE OF USE OF A LISTED BUILDING

Objections 552/964, 595/1352 & 1353

Issues

(a) Whether the policies are inconsistent regarding such things as fascia lights and advertising hoardings.

(b) Whether the policies should state that the best means of protecting buildings or landscapes of historic interest is to find a viable use for them.

Conclusions

3.43 There is no mention of fascia lights and advertising hoardings either in the policies or the reasoned justification. Visual amenity is one of two matters relevant to the consideration of proposals for advertisements and these policies would be material to any applications for advertisements on or affecting the setting of listed buildings. In addition, I see nothing in the plan to preclude the creation or retention of varied street scenes. (964)

3.44 Paragraph 4.19 recognises that the best way of securing the future of listed buildings is to keep them in active use and that the use of buildings may have to change in order to secure a viable alternative. There is nothing to say that this could not be achieved through farm diversification. (1352, 1353)

RECOMMENDATION

3.45 **R3.18 Make no modification to Policies BE7, BE8 or BE9.**

POLICY BE11- HISTORIC PARKS AND GARDENS

Objections 163/267, 509/776

Issue

Should the plan acknowledge the importance to the local economy of Blenheim Palace?

Conclusions

3.46 Blenheim Palace is a major tourist attraction and the contribution it makes to the economy of the District is not disputed. However, there is nothing in the policy to prevent the Trustees carrying out development which would not have an adverse impact on the Park or Gardens. I have no doubt that the viability of the operation and its ability to compete with other tourist attractions would be a material consideration. (776)

3.47 Amendment nos. 21 and 22 were introduced at the request of English Heritage and ensure that the information contained in paragraphs 4.25 and 4.26 is accurate and in accordance with PPG15.

RECOMMENDATION

3.48 **R3.19 Make no modification to paragraph 4.27.**

POLICY BE12 – ARCHAEOLOGICAL MONUMENTS
POLICY BE13 – ARCHAEOLOGICAL ASSESSMENTS

Objections 163/268 & 269, 571/1123

Issues

- (a) Should the policies be revised in light of advice in PPG16?
- (b) Whether the policy should state that archaeological assessments will only be required once planning permission has been granted.

Conclusions

3.49 I am sure that there are many ways an archaeological monument may be affected by development but it would not be practical to list them in the plan. Read together, Policy BE13 and its reasoned justification generally accord with PPG16. I do not consider it necessary, as suggested by English Heritage, to incorporate sections of the supporting text into the policy. (268, 269)

3.50 Requiring the submission of an archaeological assessment or field evaluation where remains are known to exist, prior to the determination of a planning application accords with the advice in PPG16. I would hope that the Council would not put applicants to the expense of commissioning such work if it is clear that a proposal would be refused on other grounds. (1123)

RECOMMENDATION

3.51 **R3.20 Make no modification to Policy BE12 or BE13**

POLICY BE15 – ADVERTISEMENTS AND SIGNS

Objection 302/496

Issue

Whether the policy should be deleted.

Conclusions

3.52 Although not a duly made objection PIC 3.2 proposes to delete the policy in response to comments made by GOSE. Whilst Section 38 (6) of the Act does not apply to advertisements they are subject to planning control and I see no reason why the plan should not include a policy relating to them. I do not propose, therefore, to accept PICs 3.2 or 3.3.

3.53 Amendment no. 23 addresses the concerns of the Highways Agency. (496)

RECOMMENDATION

3.54 **R3.20 Do not modify the plan as suggested by PICs 3.2 and 3.3.**

POLICY BE16 – FEATURE ILLUMINATION

Objection 104/170

Issue

Should consideration be given to the impact of floodlighting in or adjacent to nature conservation sites?

Conclusions

3.55 Amendment no. 24 adds a sentence to the end of paragraph 5.11 in an attempt to address the concerns of English Nature. However, the need to protect designated sites from harm is an important consideration and should be elevated above reasoned justification. (170)

RECOMMENDATION

3.56 **R3.21 Add the following criteria to Policy BE16: (d) the proposal will not have a detrimental impact on nature conservation sites designated for their wildlife interest.**

POLICY BE17 – TELECOMMUNICATIONS

Objections 84/108, 593/1334, 595/1354, 650/1511, 771/3115, 772/3116, 997/3606

Issues

(a) Whether a further criterion should be added to state that regard will be given to technical and operational considerations.

(b) Should the information required by paragraph 6.3 be made available to parish and town councils?

- (c) Should the policy recognise the link between telecommunications and transport?
- (d) Whether the policy should note that many masts are sited on agricultural land and provide an alternative source of income for farmers.
- (e) Should reference be made to the need to preserve the national heritage.
- (f) Whether the policy should, as a matter of course, require alternative design solutions

Conclusions

3.57 I consider that a minor modification to paragraph 6.3 to ensure that regard is given to operational as well as technical constraints is sufficient and do not consider it necessary to add to the policy itself. (1511) Carterton Town Council asks that the information required by paragraph 6.3 be made available to Parish and Town Councils. It is not appropriate to add such a requirement here but I would expect Parish and Town Councils to receive all the information submitted in support of applications when they are consulted. (108)

3.58 Amendment nos. 25 to 32 introduced a number of changes, many of which address objections made by Vodaphone. (1334) However, I am not persuaded that a policy recognising the link between transport and telecommunications is necessary and the wording suggested by Vodaphone goes beyond land use planning considerations.

3.59 Whilst I have no doubt that allowing operators to place masts on their land provides a useful source of income for farmers, I see no reason for the policy to refer to it. (1354)

3.60 PIC 3.4 addresses the concerns of the National Trust and I consider that it is a useful addition to paragraph 6.1. (3606) PPG8 encourages rather than requires operators to provide examples of different design solutions. However, such an approach may be appropriate particularly in sensitive locations and one would expect operators to be invited to produce alternatives where the original proposal is deemed to be unacceptable. (2115, 3116)

RECOMMENDATION

- 3.61 **R3.22 Modify paragraph 6.1 as set out in PIC 3.4**
- 3.62 **R3.23 Delete the bullet point ‘details of different design solutions’ (amendment no. 28) from paragraph 6.3 and add ‘and it may be necessary to provide details of different design solution’ at the end of the first sentence of paragraph 6.3.**
- 3.63 **R3.24 Insert ‘and operational’ after ‘technical in the second sentence of paragraph 6.3.**

POLICY BE18 – POLLUTION

Objection 583/1260

Issues

3.64 Amendment nos. 33 and 34 incorporated the Environment Agency’s suggested changes to paragraphs 7.5 and 7.6. No further modification is required.

RECOMMENDATION

3.65 **R3.25 Make no modification to paragraphs 7.5 or 7.6.**

POLICY BE19 AND APPENDIX 4 – NOISE

Objections 512/791 & 792, 523/840, 289/3434, 576/3480 & 3488

Issues

- (a) Whether paragraph 7.10 and Appendix 4 should be reinstated in light of the advice in PPG24.
- b) Should noise contours arising from aircraft using Brize Norton be marked on a plan?
- (c) Is the noise generated by aircraft using RAF Brize Norton a major constraint on development at North Curbridge?

Conclusions

3.66 Whilst military flying may usually be concentrated into weekday working hours, the role of the armed forces means that this cannot be guaranteed, nor does it mean that noise levels will be acceptable. I heard that the VC10s at Brize Norton will be replaced by a quieter aircraft but there is nothing to indicate that noise levels on any particular site would fall to an acceptable level. In addition, the uncertainty surrounding the transfer of activity from RAF Lyneham means that there is no indication regarding the extent to which the base would need to accommodate additional air traffic.

3.67 PPG24 advises against showing detailed noise contours on a proposals map and, in light of the potential changes, it would not be appropriate to include a map of noise contours around the base. I agree with the Council that the policy is sufficiently flexible to deal with any changes that may occur and I do not consider that it conflicts with the advice on military aerodromes in PPG24. (791, 792, 840) PPG24 provides detailed guidance on noise issues and I agree with the Council that paragraph 7.10 and Appendix 4 are unnecessary (CD1/27). (3434)

3.68 I deal with objections to North Curbridge (Witney Proposal 6) in Chapter 9 but I have seen nothing to show that noise generated by aircraft using Brize Norton would preclude development. (3480, 3488)

RECOMMENDATIONS

3.69 **R3.26 Make no modification to Policy BE19.**

3.70 **R3.27 Make no modification with respect to the introduction of a map showing noise contours around RAF Brize Norton.**

3.71 **R3.28 Do not reinstate paragraph 7.10 or Appendix 4.**

POLICY BE21 – LIGHT POLLUTION

Objections 104/171, 522/837

Issue

Whether criterion (a) should be relaxed where security is a priority.

Conclusions

3.72 Paragraph 7.14 recognises that one of the purposes of external lighting is to provide security. I do not make light of issues of crime prevention or security but I do not consider they should be elevated above other considerations. (837) Amendment no. 37 addresses concerns raised by English Nature. (171)

RECOMMENDATION

3.73 **R. 3.29 Make no modification to Policy BE21.**

THE NATURAL ENVIRONMENT

POLICY NE1 – SAFEGUARDING THE COUNTRYSIDE

Objections 104/172, 504/761, 576/1159, 589/1297, 595/1355

Issues

(a) Whether the policy constitutes a blanket restriction against many forms of development in the countryside.

(b) Should the policy require development to enhance the value of the countryside?

(c) Whether the policy should be rephrased to clarify the different forms of countryside and indicate the type of development which may be appropriate.

Conclusions

3.74 The policy is designed to set out the Council’s general approach to development in the countryside. Policies setting out criteria relating to the location and assessment of specific types of development can be found elsewhere in the plan. As the plan should be read as a whole it is not necessary to repeat them here. (1159) The policy accords with the advice in PPS7 which includes the aim of enhancing the countryside where possible. (1297, 1335)

3.75 Amendment no. 43 addressed GOSE’s objection relating to the best and most versatile agricultural land but paragraph 10.2 needs to be revisited in light of the more recent advice contained in PPS7. (761) English Nature’s suggestion that environmental compensation may be required where assets are unavoidably damaged is incorporated into paragraph 8.2 by amendment no. 38. (172)

RECOMMENDATIONS

3.76 **R3.30 Make no modification to Policy NE1.**

3.77 **R3.31 Modify paragraph 10.2 to reflect the guidance in PPS7**

POLICY NE2 – COUNTRYSIDE AROUND WITNEY AND CARTERTON

Objections 39/49, 74/90, 146/228, 224/341, 288/443, 295/463, 546/942, 548/949, 577/1173, 1174 & 1179, 589/1298, 592/1333, 623/1431, 645/1495, 224/3367

Issues

- (a) Whether the buffer zone should be expanded or reduced in size.
- (b) Whether development such as sports facilities and cemeteries are appropriate in the buffer zone.
- (c) Whether paragraph 8.4 should refer to Structure Plan Policy M2.

Conclusions

3.78 Thames Water argues that Policy NE2 should be deleted as PPS7 discourages local landscape designation but this goes beyond their duly made objection. It is not clear whether the buffer zone is meant to be a local landscape designation or an additional layer of control over development in the countryside. If it is the former, then its retention would conflict with the advice in PPS7. As an additional layer of control it adds little to the other policies in the development plan. There is also a tension between Policy NE2 and the advice in paragraph 26 of the PPS. The only duly made objection seeking the deletion of the policy has been unconditionally withdrawn but I would encourage the Council to look carefully at this policy when preparing the core strategy DPD.

3.79 A number of objectors seek amendments to the boundary of the buffer zone in order to facilitate development. Whilst Kilkenny Lane would form a defensible boundary to the north of Carterton, I say in paragraph 10.8 why it would not be

preferable to the Shilton Road link. (341, 3367) I dismiss the proposed omission site at Upavon Way (paragraphs 10.51-4) and say why it is important to protect the landscape of Shil Brook valley. (463) I do not support the allocation of land to the east of Witney (see paragraphs 9.18-26) and so the boundary of the buffer zone need not be altered. (1298)

3.80 Rookery Farm lies outside Brize Norton and any new housing there would be restricted by Policy H4. (443) The gap between Witney and Ducklington is vulnerable because it is narrow and its retention is important to ensure that the separate identity of the village is not eroded further. (90, 949, 1333) The countryside will inevitably include depots and sewage treatment plants, particularly on the fringes of settlements. Although not rustic in appearance, they are still part of the countryside and I see no reason why the buffer zone should not wash over the County Council depot or the sewage works to the west of the A415. (949, 1431)

3.81 The types of development set out by amendment no. 39 are generally considered to be acceptable in the countryside and the plan makes provision for utility companies to carry out necessary works. (49, 1431) Any development which would impact on the setting of the Shilton Conservation Area would also be considered against policies BE2 and BE5 taking account of the guidance in PPG15. (228, 1495)

3.82 The southern part of the Windrush in Witney Project area extends from the A40 towards the heart of the town and it is logical to retain a separate designation. (1173, 1174) Any development on either side of the A40 link to the north of the Burford Road would be subject to policies restricting development in the countryside. I see no reason to extend the buffer zone beyond the designated area. (942) It is not necessary to refer to Structure Plan Policy M2 here because the Structure Plan and Local Plan together form the statutory development plan and structure plan policies are listed, for reference, in appendix 7 to the local plan. (1179)

RECOMMENDATION

3.83 **R3.32 Make no modification to Policy NE2 or paragraph 8.4.**

POLICY NE3 – LOCAL LANDSCAPE CHARACTER

Objections 314/511, 402/631, 522/838, 576/1161, 589/1299, 595/1357

Issues

- (a) Whether the ‘Area of High Landscape Value’ designation should be retained.
- (b) Should the West Oxfordshire Landscape Assessment form an integral part of the Plan and added as an appendix?
- (c) Whether clear guiding principles for the assessment of proposals should be included in the policy.

(d) Should the policy be amended to indicate that consideration will be given to measures to mitigate harm?

(d) Would the policy force farmers to erect smaller agricultural buildings thus endangering the viability of agricultural enterprises?

Conclusions

3.84 The plan does not carry forward the Area of High Landscape Value designated in the adopted plan. Contrary to the view of Dr Wright, sand and gravel extraction would not be precluded by such a designation. (511, 631) PPS7 advises that local landscape designations should only be maintained where it can be shown that criteria based policies cannot provide the necessary protection. I am satisfied that Policies NE3, BE2 and others will provide the necessary protection for the District’s attractive landscape.

3.85 The incorporation of the West Oxfordshire Landscape Assessment (CD1/30) into the plan would introduce an unnecessary level of detail and significantly lengthen the plan to no useful purpose. (1160) By its nature the analysis takes a broad brush approach but it is a useful background document. The policy and paragraph 9.3 indicate that CD1/30 will be used where appropriate to assist in the assessment of the impact of new development on the landscape. Whilst it would not be appropriate to include CD1/30 as an appendix, I see nothing wrong in referring to it in the policy or the reasoned justification. Paragraph 9.7 gives an indication of the factors that will be taken into account in assessing the impact of development on the landscape. (838, 1299)

3.86 Although not included in the policy as requested by the East Witney Land Consortium, amendment no. 40 indicates that measures designed to mitigate potential harm will be taken into account. (1299) The needs of an agricultural enterprise should be a material consideration where planning permission is required for an agricultural building or other works. This policy should ensure that these needs are balanced against the impact development would have on the landscape. (1357)

RECOMMENDATION

3.87 **R3.33 Make no modification to Policy NE3.**

POLICY NE4 – COTSWOLDS AREA OF OUTSTANDING NATURAL BEAUTY

Objections 503/745, 595/1358

Issues

(a) Whether the policy should state that development within or impacting on the AONB will not be permitted, except within defined limits, and subject to stated criteria.

(b) Would the policy force farmers to erect smaller agricultural buildings thus endangering the viability of agricultural enterprises?

Conclusions

3.88 I share the Countryside Agency’s concern that the policy does not adequately reflect the importance placed on AONBs in national guidance. Paragraphs 9.17 and 9.18 address major development and the need to support development necessary to facilitate the economic and social well being of the area. However, in light of the advice in PPS7 these matters should not be relegated to reasoned justification. (745)

3.89 The Country Land and Business Association object to this policy on the same grounds as Policy NE3, my response is the same as set out in paragraph 3.85 above. (1358)

RECOMMENDATION

3.90 **R3.34 Modify Policy NE4 and its reasoned justification to reflect the advice in paragraphs 21 to 23 of PPS7.**

POLICY NE5 – OXFORD GREEN BELT

Objections 504/764, 509/771, 577/1180, 621/1422, 314/3561, 983/3395

Issues

(a) Whether the policy should be amended to reflect the advice in PPG2 on Green Belts.

(b) Whether there should be an amendment to the boundary of the green belt in Bladon.

(c) Should paragraph 9.25 make reference to Structure Plan Policy M2? Does this paragraph favour mineral extraction or should it be modified to reflect local opinion that gravel extraction would have an adverse impact on the community and the environment?

Conclusions

3.91 I agree with GOSE that the policy does not adequately reflect the advice in PPG2. Referring to extensions and replacement dwellings in paragraph 9.23 (amendment no. 41) is insufficient and the policy should be modified with particular regard given to paragraphs 3.4, 3.6 of the PPG and the advice relating to the re-use of buildings. (764)

3.92 The treatment of Bladon accords with the advice regarding existing villages in PPG2. The Green Belt boundary follows the wall around Blenheim Palace. This is a recognisable and permanent feature and I am aware of no exceptional circumstances to warrant a revision of the Green Belt boundary in the village. (771)

3.93 The Structure and Local Plans should be read together and it is not necessary to refer to Structure Plan Policy M2 in paragraph 9.25 (amendment no. 42). (1180) The Council conceded at the Inquiry that the amendment adds nothing to the plan and accepted that it could be deleted. The removal of this sentence deals with any criticism that the plan favours gravel extraction. (3395, 3561) There is clearly strong local opposition to mineral working around Eynsham, Cassington and Yarnton. However, it would not be appropriate to refer to it here as this is a matter for the County Council and it may fetter the District Council’s consideration of any future proposals. (1422)

RECOMMENDATIONS

3.94 **R3.35 Modify Policy NE5 to reflect the advice in PPG2 giving particular regard to paragraphs 3.4, 3.6 and the advice relating to the re-use of buildings.**

3.95 **R3.36 Delete the second sentence of paragraph 9.23 (amendment no. 41)**

3.96 **R3.37 Delete the second sentence of paragraph 9.25 (amendment no. 42)**

NATURAL RESOURCES – AGRICULTURE

Objections 503/747, 504/761 & 2

Issue

Whether the last sentence of paragraph 10.4 seeks to restrict the disposal of capital assets.

Conclusions

3.97 I agree with GOSE that it is not within the scope of the planning system to restrict the disposal of capital. However, the plan does not seek to do this and it may be a material consideration when faced with proposed diversification schemes. (762) Nevertheless, paragraphs 10.4 to 10.6 should be revisited in light of the advice in PPS7.

3.98 Amendment no. 44 addresses the concerns of The Countryside Agency. (747) As I say in paragraph 3.74 above, amendment no. 43 addressed GOSE’s objection relating to the best and most versatile agricultural land but paragraph 10.2 needs to be revisited in light of the more recent advice contained in PPS7. (see Recommendation 3.31) (761)

RECOMMENDATION

3.99 **R3.38 Modify paragraphs 10.4 to 10.6 to reflect the advice in PPS7.**

POLICY NE6 – RETENTION OF TREES, WOODLANDS AND HEDGEROWS

Objections 104/152 & 173, 576/1162, 595/1360

Issues

(a) Whether the policy should be either deleted or a set of significant and specific criteria be added to aid assessment.

(b) Would the policy prevent clear fells of marketable timber and/or the replanting of trees in suitable patterns and locations?

Conclusions

3.100 The value of trees and hedgerows to the landscape is subjective but no more so than the impact of a building and judgements can be guided by objective analysis or a set of criteria. In this case the policy sets out a series of factors that will need to be taken into account and I see no reason either to delete it or expand it further. (1162)

3.101 The policy could not be used to prevent clear fells of marketable timber or the replanting of trees as planning permission is not required for forestry operations of this type. (1360)

3.102 The policy is not meant to deal with all habitats but it recognises the value of trees, woodlands and hedgerows to biodiversity. Together with Policies BE2 and NE12 the plan should provide the level of protection for all habitats sought by English Nature. (152) Amendment no. 46 provides guidance regarding the location of new planting. (173)

RECOMMENDATION

3.103 **R3.39 Make no modification to Policy NE6.**

POLICY NE7 – THE WATER ENVIRONMENT

Objections 583/1262 & 1280

Issue

3.104 Amendment nos. 47 and 48 incorporated the Environment Agency’s suggested changes to paragraphs 10.21 and 10.22. No further modification is required.

RECOMMENDATION

3.105 **R3.40 Make no modifications to paragraphs 10.21 and 10.22.**

POLICY NE8 – FLOOD RISK

Objections 567/1100, 567/3436 & 8, 595/1362, 623/1432, 571/3633

Issues

- (a) Whether the policy accords with the advice in PPG25.
- (b) Should the policy be extended to protect the flooding of agricultural land?

Conclusions

3.106 Amendment nos. 49 to 57 introduced a number of changes to the policy and reasoned justification designed to bring the plan into line with PPG25. As set out in paragraph 23 of the PPG there is a difference between a floodplain and a functional floodplain. It is only in functional floodplains that the PPG advises built development should be wholly exceptional and limited to essential transport and utilities infrastructure. Paragraph 10.26a should be modified accordingly (amendment no. 52). (3438)

3.107 Amendment no. 53 refers to the sequential approach set out in the PPG and it is not necessary to duplicate that detailed guidance here. However, the amendment does not truly reflect the PPG as no mention is made that, in considering alternatives, regard should be given to other sustainable objectives. In light of amendment no. 51 it is sufficient to refer to the sequential approach in paragraph 10.27 and the last sentence should be deleted. (1100, 1432, 3633. 3638)

3.108 The purpose of the policy to is to restrict development in areas at risk from flooding not to provide flood defences. (1362)

RECOMMENDATIONS

3.109 **R3.41 Make no modification to Policy NE8.**

3.110 **R3.42 Insert ‘in functional floodplains’ between ‘development’ and ‘will’ in the last sentence of paragraph 10.26a.**

3.111 **R3.43 Delete the last sentence of paragraph 10.27 (amendment no. 53)**

POLICY NE9 – SURFACE WATER

Objections 583/1265, 571/3634, 996/3566

Issue

- (a) Whether the Plan should contain a policy on Sustainable Drainage Systems (SuDS).

Conclusions

3.112 The policy does not refer specifically to SuDs but the phrase ‘appropriate attenuation’ combined with paragraph 10.30 (amendment no. 55) would enable them to be provided where appropriate. (1265) However, as the HBF rightly point out they will not be appropriate in all circumstances and paragraph 10.31 should be modified to reflect this. How such systems would be managed and maintained should be left for discussion. (3566, 3634)

RECOMMENDATIONS

3.113 **R3.44 Make no modification to the plan with respect to the inclusion of a new policy relating to SuDs.**

3.114 **R3.45 Insert ‘where appropriate’ between ‘include’ and ‘the’ in the last sentence of paragraph 10.30 (amendment no. 55).**

POLICY NE10 – WATER RESOURCES

Objections 583/1266 & 1281,

Issues

3.115 Amendment nos. 56 and 57 address the Environment Agency’s concerns. No further modification is required.

RECOMMENDATION

3.116 **R3.46 Make no modification to Policy NE10 or paragraphs 10.31 and 10.31a.**

WASTE WATER MANAGEMENT

Objections 571/1124 & 1125, 623/1437 & 1438, 623/3402

Issues

(a) The acquisition of foul sewers and upgrading of sewage treatment works is dealt with under other legislation and should not be duplicated through planning policy.

(b) If the inadequacy of non-mains sewerage is a ground for refusing planning permission it should be an upper case policy.

Conclusions

3.117 The ability of foul and surface water drainage systems to accommodate new development is a material consideration in the determination of planning applications. (1124) Policy BE1 would preclude development which could not be accommodated

by existing foul and surface water systems and I do not consider that a policy dealing specifically with this issue is required. (1437, 1125)

3.118 Amendment no. 13 seeks to address Thames Water’s desire to see a policy relating to utilities infrastructure. The first sentence of paragraph 2.18a reads as a statement of policy not reasoned justification. However, as such development would be controlled by other policies in the plan. I do not consider either the first sentence of paragraph 2.18a or a policy dealing specifically with utilities infrastructure to be necessary. (1438, 3402)

RECOMMENDATIONS

3.119 **R3.47 Make no modification to the plan with respect to the introduction of policies relating to the capacity of foul and surface water drainage systems or utilities infrastructure.**

3.120 **R3.48 Delete the first sentence of paragraph 2.18a**

MINERALS AND WASTE

Objections 577/1175-78

Issues

3.121 Amendment no. 58 incorporates The County Council’s suggested changes to this section. No further modification is required. (1175 – 78)

RECOMMENDATION

3.122 **3.49 Make no modification to paragraphs 10.36 to 10.40.**

ENERGY

Objections 503/749, 504/763, 595/1372, 641/1472, 641/3603, 997/3605

Issues

(a) Should paragraph 10.42b refer to the views of the Countryside Agency?

(b) Whether new housing developments should be required to submit plans for community-type combined heat and power plant based on renewable energy resources.

(c) Whether the policy should refer to solar energy systems.

Conclusions

3.123 In response to calls from GOSE, amongst others, amendment no. 60 introduced Policy NE15, amendment nos. 61 to 63 set out consequential changes to paragraph 10.42 and added paragraphs 10.42a and b. (763, 749, 1372, 1472)

3.124 It is not clear whether the Council shares the view of the Countryside Agency set out in paragraph 10.42b. (3603) The Council would be the determining authority with regard to proposals for wind turbines and it is the Council’s view that should be set out in this plan. The paragraph should be modified to set out the Council’s position and to reflect the advice in paragraphs 11 and 12 of PPS22.

3.125 I do not agree that the policy reads as being confined to wind farms and I do not consider it necessary to refer to solar energy. (3603) Nor do I consider that criterion (i) should be modified to refer to visual impact as development may have an effect on a range of issues. Although the possible consequences of development set out in criterion (ii) are generally associated with wind turbines they are not exclusive to such development. (3605) I see no reason, therefore, to accept PIC 3.6.

3.126 PIC 3.7 has been overtaken by the publication of PPS22 but, provided it is modified to reflect this, it would be a useful addition to paragraph 10.42. PIC 3.8 adds little to the text it would replace and I see no reason to include a list of policies here. As the plan deals solely with West Oxfordshire the purpose of PIC 3.9 escapes me. PIC 3.10 accords with advice in PPS22 but goes further than reasoned justification. I do not, therefore, consider PIC 3.10 to be acceptable but recommend an alternative modification to paragraph 10.42b.

3.127 Developers are required to have regard to energy conservation by Policy BE2 and there is no need to repeat it here. Innovation in the use and source of energy should be encouraged. PPS22 says that plans may include policies that require community type combined heat and power plant based on renewable energy resources. However, the formulation of a policy may take some time and rather than recommend that one is included in this plan the Council consider incorporating such a policy in a core strategy DPD. (1372)

RECOMMENDATIONS

3.128 **R3.50 Make no modification to Policy NE15.**

3.129 **R3.51 Modify paragraph 10.42b to reflect the advice in PPS22 regarding development in AONBs and delete reference to the Countryside agency’s view on commercial wind turbine developments in AONBs.**

3.130 **R3.52 Add the following to the end of paragraph 10.42b ‘Applicants will be expected to demonstrate the environmental, economic and social benefits of any proposal together with measures to mitigate any adverse impact’.**

3.131 **R3.53 Modify paragraph 10.42 as set out in PIC 3.7 provided it is amended to reflect the publication of PPS7.**

3.132 **R3.54 Make no modification to paragraphs 10.42a and 10.42b as proposed by PICs 3.8, 3.9 and 3.10.**

ECOLOGY AND GEOLOGY

POLICY NE12 – BIODIVERSITY CONSERVATION

Objection 583/1267

Issue

Whether the policy and the supporting paragraphs should reflect the importance of protecting undesignated habitats and non-protected species.

Conclusions

3.133 Priority habitats are defined in paragraph 11.3 and, contrary to the view of the Environment Agency, they are not restricted to protected species and habitats. The policy is designed to protect features of nature conservation value and I am satisfied that the policy would safeguard the types of habitat of concern to the Agency. (1267)

RECOMMENDATION

3.134 **R3.55 Make no modification to Policy NE12 or its reasoned justification.**

POLICY NE13 – SITES OF NATURE CONSERVATION OR GEOLOGICAL IMPORTANCE

Objections 104/148-51, 104/153, 176, 104/181-84, 558/1057, 576/1163, 577/1182, 583/1268, 982/3394

Issues

(a) Whether the boundaries of SSSIs and Local Nature Reserves (LNRs) and other protected areas should be shown on the Proposals Map.

(b) Should the plan include a commitment to increase the number of LNRs?

(c) Whether the footnote to the policy should refer explicitly to ‘irreplaceable ecological and geological habitats’ such as ancient woodland.

(d) Should the plan protect key habitats from development pressures which may be generated from outside the District?

(e) Whether the policy should protect undesignated habitats and non-protected species.

(f) Whether the level of protection afforded internationally, nationally and regionally important sites should be extended to local sites.

Conclusions

3.135 Amendment nos. 65 to 72 update the plan and address requests for changes sought by English Nature. (148, 149, 150, 151, 153) I agree with the Council that it would be impractical to plot the boundaries of SSSIs and LNRs on the Proposals Map. The scale of the map is such that inaccuracies are bound to occur and I am satisfied that the Council’s approach accords with PPG9 which asks only for sites to be identified. (181-184) Financial constraints restrict the Council’s ability to acquire sites it may wish to designate as LNRs but there is nothing in the plan to prevent it from doing so should the opportunity arise. (176)

3.136 It is likely that all irreplaceable ecological and geological habitats will find protection in Policies NE6, NE12 and NE13, amongst others and there is no need to reiterate those safeguards here. I see no reason, therefore, for PICs 3.11 or 3.12. (3394) The policy would provide a sound basis for the Council to object to any development proposals submitted to neighbouring authorities that may affect nature conservation sites within the District. (1057) This policy is designed to deal with protected habitats and species, Policy NE12 safeguards sites and species not protected by national or international designations. (1268)

3.137 Paragraphs 11.10, 11.12 and 11.21 set out the levels of control over development in or affecting international, national and local sites. (1163) However, in addition to being statements of policy these criteria are too important to be relegated to reasoned justification and should be included as policy as advised by PPS7.

RECOMMENDATIONS

- 3.138 **R3.56 Modify Policy NE13 to reflect the different criteria for site protection as set out in paragraphs 11.10, 11.12 and 11.21. Modify these paragraphs to take account of these changes.**
- 3.139 **R3.57 Make no reference to ancient woodlands in the footnote to Policy NE13.**
- 3.140 **R3.58 Make no modification to Policy NE13 regarding non protected species or habitats.**
- 3.141 **R3.59 Make no modification to the Proposals Map in relation to marking the boundaries of SSSIs, LNRs and other areas.**
- 3.142 **R3.60 Make no modification to paragraph 11.17.**
- 3.143 **R3.61 Make no modification to paragraphs 10.12 or 11.5 as set out in PICs 3.11 or 3.12**

POLICY NE14 – PROTECTED SPECIES

Objections 104/154 & 185, 583/1269, 571/3635

Issues

- (a) As species and habitats are protected by other legislation is there a need for this policy?
- (b) Whether the policy should be expanded to cover non-protected species.

Conclusions

3.144 PPG9 advises that the presence of protected species is a material consideration in the assessment of development proposals. Policy NE14 relates to the development and use of land and the inclusion of the policy accords with guidance set out in PPG9. (3635)

3.145 The Environment Agency’s objection to this policy is identical to those made to Policies NE12 and NE13. As with Policy NE13, Policy NE14 is designed to deal with protected species, Policy NE12 safeguards sites and species not protected by national or international designations. (1269) Amendment nos. 73 to 77 address the concerns of English Nature. (154, 185)

RECOMMENDATION

3.146 **R3.62 Make no modification to Policy NE14.**

ENHANCEMENT AND CREATION OF NEW HABITATS

Objections 104/155, 156, 577/1183

Issues

- (a) Whether a statement should be added to paragraph 11.27 setting out a commitment to increase the number of County Wildlife Sites.
- (b) Is a policy is required which seeks to ensure that local residents have access to wildlife sites within a kilometre of their homes.

Conclusions

3.147 Paragraph 11.27 sets out, by reference to Structure Plan Policy EN6, the Council’s commitment to the creation of new habitats and I agree with the Council (CD1/27) that the addition proposed by English Nature is unnecessary. (155) Enabling public access to nature conservation sites is a laudable aim but I agree with the Council that the inclusion of a policy to this end would not be appropriate as public access may not always be appropriate or achievable. Although it does not go

as far as English Nature would wish, I am satisfied that the issue of access is addressed adequately by amendment no. 78. (156)

3.148 Amendment no. 79 corrected paragraph 11.33 as requested by the County Council. (1183)

RECOMMENDATIONS

3.149 **R3.63 Make no amendment to paragraph 11.27**

3.150 **R3.64 Make no modification to the plan with respect to the inclusion of a policy giving local residents access to wildlife sites.**

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