

## CHAPTER 13 - ENVIRONMENT

### 13.1. POLICY 95: LANDSCAPE STRATEGY

#### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
364	Great Gaddesden Parish Council	1869	Countryside Agency
648*	HCC Environment Department	2875	British Waterways
1369	CPRE - The Hertfordshire Society	4033	HCC Environment Department
1807	Water End & Upper Gade Valley Conservation Society	4034	HCC Environment Department

#### Supports

740	Herts & Middlesex Wildlife Trust	4297	Mrs B Lea
3213	Flaunden Parish Council	4957L	English Nature

#### Supports for pre-inquiry changes

For pre-inquiry change 154

5473PC CPRE - The Hertfordshire Society

For pre-inquiry change 155

5475PC CPRE - The Hertfordshire Society

For pre-inquiry change 156

5474PC CPRE - The Hertfordshire Society

### Key Issues

- (a) Does Policy 95 and its supporting text reflect advice in Government guidance and accord with Structure Plan policies 43 and 44. (4033, 4034)
- (b) Should the wording of Policy 95 be amended to take account of the local distinctiveness of the ecology of the area. (648)
- (c) Would it be more appropriate if the third paragraph of the policy referred to the Countryside Agency’s Countryside Character approach (1869)
- (d) Should the fifth paragraph be altered to refer to visual impact by day and by night. (364, 1369, 1807)
- (e) Would the Plan be improved if the landscape areas were identified on the Proposals Map (1869)
- (f) Should the Article 4 designation which covers the Grand Union Canal next to Doolittle Meadow be removed (2875)

### Inspector’s Conclusions

#### *(a) Policy 95 and Government guidance*

- 13.1.1. The County Council questions whether the policy complies with national guidance. It points out that “Planning for sustainable development: Towards better practice”, which was published by the DETR in October 1998, recommends, amongst other key actions, that during development plan preparation a systematic analysis of the character of the local landscape should be undertaken. It also indicates that development control policies should be devised which take account of this landscape dimension. This reinforces the advice in PPG7 about the relevance of the local landscape assessments.
- 13.1.2. In addition, the objector points out the requirements of Policies 43 and 44 of the adopted Structure Plan, which require the future of Landscape Conservation Areas to be reviewed and for Landscape Regions and their particular characteristics to be defined in local plans. It considers that the Local Plan shows insufficient commitment to undertaking these key actions. It believes that the Minerals Local Plan could be

used as a basis for this work. It suggests that in the meantime a number of improvements could be made to the wording of Policy 95 to strengthen it and highlight the need for further work on landscape assessments.

- 13.1.3. The Borough Council acknowledges that national policy guidance is suggesting that councils move towards a character assessment approach in reviewing landscape designations but considers that it is not a specific requirement of the guidance as yet. The Structure Plan policies do not rule out the use of Landscape Conservation Areas but seek their gradual review based on landscape regions. Policy 95 of the Local Plan identifies important areas of landscape and seeks to preserve them. It also recognises the importance of the character assessments undertaken by the Countryside Agency and the County Council’s Landscape Strategy.
- 13.1.4. The Borough Council believes that the County Council should take a strategic role in co-ordinating further work to ensure consistency across the county. It alleges that this has not happened to date and points out that the Minerals Local Plan is of limited assistance as it only covers a small area of the Borough. It contends that work is taking place incrementally on landscape assessment with work underway in the Chilterns AONB area. It accepts, however, that more work needs to be done and proposes a number of further changes to the Plan (FCs 80, 81, and 82) to reflect this. However, it does not accept the amendments proposed by the objector.
- 13.1.5. The need for landscape policies to be based on properly conducted landscape assessments is becoming of increasing importance. I have no doubt therefore that in order to comply with the aims of PPG7 and Policies 43 and 44 of the Structure Plan that the Borough Council will have to devote more effort to undertaking a comprehensive landscape assessment of its area. There is a danger that if it fails to do so the current landscape designations in the Plan will either come under increasing pressure for deletion or will be accorded much less weight in future development control decisions.
- 13.1.6. I appreciate that the task of undertaking such an assessment will be time consuming and will need to be co-ordinated with the County Council and adjoining districts to ensure that a consistent approach is adopted. Nevertheless I consider that this work is essential to ensure that the designation of locally protected areas of landscape under Policies 97 and 98 of the Plan is properly underpinned. Without such an assessment it is difficult to establish precisely the landscape character that these policies are seeking to conserve or enhance.
- 13.1.7. Although the current national and county wide assessments, which are included in the Countryside Character Approach and the County Landscape Strategy, will be of some assistance they are likely to be of only limited value when considering detailed development proposals, as these landscape definitions are understandably broad brush in nature. They tend therefore to overlook those matters that create local distinctiveness that are of such importance in creating a sense of place.
- 13.1.8. The Borough Council’s proposed further changes would go some way to recognising the need for a local assessment to be undertaken. However, I am concerned that the proposed reference in the supporting text (FC81) to undertaking such work “*as resources allow*” fails to give this matter the degree of priority I believe it deserves. To my mind substantial progress needs to have been made on a comprehensive

landscape assessment of the Borough before the next review of the Plan. This will be essential if the Borough Council is to undertake the detailed review of the Landscape Conservation Areas and Landscape Development Areas that I have recommended in paragraphs 13.3.8 and 13.4.6 of my report.

- 13.1.9. Consequently, I believe that the wording of FC81 needs to be amended to give a greater sense of urgency to this work. However, in the light of the amount of work involved I do not consider it would be reasonable to require this work to be undertaken prior to the adoption of the current Plan. Instead I consider it would be reasonable to require such work to have been undertaken before the next review of the Plan.
- 13.1.10. I have carefully considered the other changes put forward by the objector in Appendix Z to O/4033, 4034/1A/4. In my view the proposed changes to the first two paragraphs of the policy are largely cosmetic and would not significantly alter the thrust of the policy. I am not satisfied, therefore, that they are warranted. While it may in time be possible for the landscape hierarchy to be derived from the County Council’s Landscape Strategy that is not the case with the presently designated areas. In the circumstances, I am satisfied that the reference to the hierarchy being applied with reference to the County’s strategy is more appropriate. Although the County Landscape Strategy may give more detail I do not consider that this is sufficient reason to delete the reference to the Countryside Agency’s Countryside Character Approach.
- 13.1.11. Again in my view the proposed alteration to the fourth paragraph would not significantly improve its clarity or reinforce its purpose. In my view the question of landscape creation is already adequately addressed by Policy 98. Referring to it in Policy 95 as well would in my view lead to unnecessary repetition. Neither in my opinion is there a need to refer to the effect of obstruction on landscape higher up the hierarchy since this would already be effectively covered.
- 13.1.12. As far as the suggested changes to the “Reasons” I agree that greater guidance on how the Borough intends to approach the preparation of its landscape character assessments might be useful. However, I do not consider it is essential and bearing in mind the current length of the Plan I am not convinced that the alternative wording put forward by the objector in respect of paragraph 13.1 is of sufficient merit to insist that the wording be amended along these lines. As the Structure Plan also forms part of the Development Plan I see no real need for it to be referred to in paragraph 13.2 of the Local Plan.
- 13.1.13. The additional wording proposed for paragraph 13.3 would not in my view add anything of real value and would not reflect the way the Borough Council has been developing landscape assessment to date. However, I consider that the minor amendment proposed by the Borough Council under PIC156 would enhance the sense of the first sentence and I therefore support it. While it may be necessary to revise the Landscape Development Areas, following the Landscape Character Assessments, to refer specifically to this fact in the current Plan could be seen to undermine their value as a development control tool. I am not sure what merit the proposed change to paragraph 13.6 of the background text would have. I therefore recommend that in response to these objections the Plan be modified solely in accordance with PIC 156 and FCs 80, 81 and 82, subject to the wording of FC81 being amended to give greater priority to the necessary work.

- 13.1.14. In reaching my conclusions on these objections I have taken into account the input the Borough Council has made to “The Chilterns Design Guide” (CD65). However, this covers only part of the Borough and appears to be primarily aimed at building design rather than landscape character assessment. Moreover in covering the whole of the AONB it again takes only limited account of local distinctiveness. I do not consider therefore that it reduces the need for the Borough Council to undertake a comprehensive landscape assessment of the Borough as a matter of some urgency.

**(b) “Local distinctiveness”**

- 13.1.15. The objector suggests that the wording should be amended to reflect the need to maintain and enhance the local distinctiveness of the ecology of the area. It also seeks the inclusion of a reference to the relevant English Nature Natural Areas. The Council accepts the revised wording suggested by the objector and proposes to alter the policy under the provisions of PIC155 to reflect this. However, it does not accept the need for reference the English Nature Natural Areas.
- 13.1.16. Local distinctiveness is an important element of landscape quality whether it is purely in nature conservation terms or in respect of the wider visual interest of the landscape. I find therefore that the reference to local distinctiveness would enhance the Plan and I support PIC155. I recommend that the Plan be modified accordingly.
- 13.1.17. Since the definition of English Nature’s Natural Areas would appear to conflict with the areas identified in the County Council’s Landscape Strategy I am concerned that their inclusion could lead to confusion. In any event these areas appear to have been superseded by the Countryside Character Approach. I see no need therefore for the Plan to be modified to identify the specific English Nature Natural Areas that were previously relevant to Dacorum.

**(c) *The Countryside Character approach***

- 13.1.18. The Countryside Agency considers that the reference to the “*Countryside Commission and English Nature’s Natural Areas*” should be amended, as the current relevant initiative is the ‘Countryside Character Approach’. The Council accepts this and proposes to correct the reference under the provisions of PIC154. This also seeks to include the Countryside Commission’s new title. As this change would ensure that the Plan was more up-to-date and meets the objection I endorse it. Consequently, I recommend that the Plan should be modified in accordance with PIC154.

**(d) *Day and night visual impact***

- 13.1.19. The objectors suggest that the fifth paragraph of the policy would be improved if it specifically referred to the visual impact on the landscape both by day and by night. However, in my view the words “*visual impact*” would in my view cover the visual effect of any development on the landscape whether this is by day or by night. The section on exterior lighting in the Environmental Guidelines will help to reinforce this. I therefore see no need for the additional wording. I therefore recommend that no modification be made to the Plan in response to these objections.

**(e) Including landscape areas on the Proposals Map**

- 13.1.20. The Countryside Agency suggests that it would be better if the Plan contained a map of the Borough showing the landscape areas identified. However, the landscape areas included in categories (a), (b) and (d) are already shown on the Proposals Map. The only areas not specifically identified is the “*land of varied visual quality*” but this is clearly described in paragraph 13.5 of the Plan and is limited only to Bovingdon Airfield and its surroundings. In the circumstances I see no need for a further map to be inserted into the Plan to identify the relevant landscape areas. I recommend that no modification should be made to the Plan in the light of this element of objection 1869.

**(f) Article 4 direction on the Grand Union Canal**

- 13.1.21. British Waterways objects to the Article 4 direction that covers the Grand Union Canal next to Doolittle Meadow. The Council points out that the policy merely lists existing Article 4 directions and that the designation process is separate from the Local Plan.
- 13.1.22. The cancelling of any Article 4 direction has to be done through the issue of a further direction under the provisions of Articles 5(16) or 8 of the GPDO. It therefore clearly falls outside the remit of the Local Plan process. I therefore make no comment on the suitability of the Article 4 direction at Doolittle Meadow.
- 13.1.23. However, this objection in my view brings into question the whole issue of whether or not it is appropriate for Article 4 directions to be listed in Policy 95 in the first place. Since their inclusion within the policy would not give the Council any greater degree of control over these areas I can see no real advantage in their being listed in this way. Moreover, the making of Article 4 directions is not solely a landscape consideration. It is also possible that the Council may wish to make changes to this list during the life of the Plan. Taking all these factors into account I consider that it would be much better if this list was deleted from the policy. If the Council considers that it is essential that it be retained in the Plan I would suggest that it be placed in the supporting text or better still in a separate appendix. I recommend that the Plan should be modified accordingly.

**(g) Other matters**

- 13.1.24. In the light of my recommendation in paragraph 13.11.7 I also recommend that the reference to Policy 105 should be deleted.

**Recommendation**

- 13.1.25. **The Plan be modified by:-**

**(a) amending Policy 95 as follows:-**

- (i) revise the wording in accordance with PICs 154, 155 and FC80;**
- (ii) delete the reference to Policy 105;**

(iii) delete the list of Article 4 directions (*if the Council considers their retention in the Plan is essential they should be moved to the supporting text of a separate appendix*)

(b) altering the background text in accordance with PIC156 and FC81, subject to the words “*as resources allow*” in the latter being omitted and the words “*before the next review of the Plan*” being inserted instead;

(c) amending section 15 of Part 1 in accordance with FC82.

## 13.2. POLICY 96: CHILTERN AREA OF OUTSTANDING NATURAL BEAUTY

### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
597	The House Builders’ Federation	3722	Silvermere Developments
1251	The Chiltern Society	3768	The Tring Park Estate
1370	CPRE - The Hertfordshire Society	4022*	HCC Environment Department
1870	Countryside Agency	4035	HCC Environment Department
1961	Cougar Enterprises Ltd	4801*	Castle Cement Ltd
2959	Old Road Securities plc	5806L	English Nature
3712	Silvermere Developments		

### Counter Objection

To pre-inquiry change 160

5311PC HCC Environment Department

### Supports

741	Herts & Middlesex Wildlife Trust	4298	Mrs B Lea
1897	Chiltern District Council	4958L	English Nature

### Supports for pre-inquiry changes

For pre-inquiry change 157

5476PC CPRE - The Hertfordshire Society

For pre-inquiry change 158

5261PC English Nature

5477PC CPRE - The Hertfordshire Society

For pre-inquiry change 159

5262PC English Nature

5478PC CPRE - The Hertfordshire Society

5714PC Castle Cement Ltd

To pre-inquiry change 160

5263PC English Nature

5479PC CPRE - The Hertfordshire Society

## Key Issues

- (a) Should the policy refer to the social and economic circumstances in which exceptions can be made. (597)
- (b) Is the policy too detailed. Does it cover matters beyond the scope of the Local Plan. Or should it be strengthened to identify aspects of the landscape that contribute to its character and beauty and include guidelines designed to respect this character, to achieve appropriate design and to ensure the compliance of new development. (597, 4035, 5806L)
- (c) Ought new golf courses to be completely banned. (1251)
- (d) Should “access for all” policies be referred to under ‘Open Air Recreation’. (1870)
- (e) Does the policy deal satisfactorily with the redevelopment of existing commercial sites. (1961)
- (f) Does the advice on open-air recreation exceed PPG7 and should it refer to marina/mooring facilities on the Grand Union Canal. (1961)

- (g) Should the AONB boundaries be amended. In particular should the sites at Station Road/Cow Lane, New Mill, London Road/Cow Lane and Park Street, Tring be removed from the AONB (2959, 3712, 3722, 3768)
- (h) Are Pre Inquiry Changes 157 – 160 appropriate. (1370, 4022, 4801)

## **Inspector’s Conclusions**

### **(a) *Social/Economic aspects***

- 13.2.1. This policy properly reflects the thrust of PPG7 in stating that the prime planning consideration in the AONB will be the conservation of the natural beauty of the landscape. However, although the supporting text recognises that the social and economic well being of the AONB and the communities it supports must also be taken into account, this is not reflected in the policy itself. Indeed in stating that ‘any development proposal which would detract from it (i.e. the beauty of the area) will be refused’ the policy seems to be taking a more stringent line to new development than PPG7. A strict interpretation of such a policy might rule out small scale, appropriate development, which helps underpin the vitality and character of the area.
- 13.2.2. Bearing in mind the Government’s emphasis in the recent Rural White Paper on supporting rural diversification and regeneration I consider that it would be preferable for social and economic factors to be reflected in the wording of the policy itself. I also feel that insertion of the word ‘seriously’ before ‘detract’ in the above sentence would better reflect the intent of government policy for AONBs.
- 13.2.3. I do not, however, think that it is necessary to go beyond this in setting out the social and economic circumstances that might justify exceptions to the general policy. The planning guidelines (a) to (g) in the rest of the policy already do this to an extent, notably in the case of mineral extraction which has a particular bearing on the Chilterns AONB. I can see no necessity to repeat in detail the other provisions of PPG7 in respect of major industrial or commercial development or road construction. Much of Dacorum’s AONB is also covered by Green Belt so the scope for any major developments of this kind is limited and would have to be justified as departures from both the AONB and Green Belt policies. I therefore recommend no further modification should be made to the Plan in respect of this objection.

### **(b) *Detailed nature of the policy***

- 13.2.4. Sections (a) to (g) of the policy set out guidelines for landowners and the Council in considering proposals for new development within the AONB. I consider that these are clear and helpful criteria in guiding the preservation and enhancement of the AONB, and are justified by the special considerations that should apply within the AONB, over and above the general environmental guidelines in Part 5 of the Plan. Whilst I recognise that these criteria are fairly detailed and lengthy I agree that it is appropriate to retain them within the body of the policy itself rather than include them in the supporting text, as suggested by objection 597. Nor do I think that these provisions go beyond what is appropriate within a local plan since all of them have a bearing, directly or indirectly, on land use matters.

- 13.2.5. Objection 4035 seeks an amplification of the policy to reflect the aspects of the Chilterns landscape that contribute to its character and beauty and to incorporate in the guidelines references to local landscape character, appropriate scales of development, various design considerations and mechanisms for achieving best practice. As I have indicated above, Policy 96 is already a long policy and any further lengthening is, in my view, undesirable. Clause (a) of the policy already refers to the sympathetic siting and design of new development, whilst detailed design matters are covered in other policies in the Plan, supported by the Environmental Guidelines (*which I have separately recommended should appear as Supplementary Planning Guidance*). I note also that the supporting text refers to the Council’s intention to have regard to the Management Plan for the Chilterns AONB and the supplementary advice produced by the Chilterns Conference on environmental management of roads and the siting and design of new buildings.
- 13.2.6. I am satisfied therefore, that the above provisions will ensure that development meets the overall aim of preserving the beauty of the AONB and also respects the aspects of local landscape which contribute to its character. Accordingly I recommend that no modifications should be made to the Plan in response to these three objections.

**(c) *Golf Courses***

- 13.2.7. There is nothing in PPG7 to indicate that golf courses should be banned altogether from AONBs. The Plan contains a separate policy on golf courses (Policy 79) which seeks to steer new developments to appropriate locations and which indicates that new golf courses will not be allowed where they would adversely affect the AONB. This, in my view, provides sufficient general protection for the AONB. Criterion (b) of Policy 96 reinforces this by indicating that any golf courses that might be permitted would need to be carefully integrated into the landscape. I do not accept that the policy needs to be more stringent than this.

**(d) *Access for all***

- 13.2.8. I do not think that there is any necessity to include a specific reference to ‘access for all’ policies when referring to the development of appropriate recreation facilities in the AONB. Access for the disabled to transport facilities, public areas and any new development is the subject of a separate policy (Policy 64) which will presumably apply to open air recreational facilities within the AONB as well as to urban facilities. In addition there are policies elsewhere in the Plan that refer to improved accessibility to the countryside through footpaths (Policy 80) and bridleways (Policy 81). Moreover, my understanding is that The Countryside Commission’s ‘access for all’ policy refers to countryside recreational facilities in general and it would be misleading therefore to refer to these only in the context of the AONB. I recommend that no modification should be made to the Plan in the light of objection 1870.

**(e) *Redevelopment of existing commercial sites.***

- 13.2.9. This objection makes a similar point to objection 1958, in respect of the redevelopment of commercial premises in the Green Belt, which I have already dealt with in Section 4.11 of my report. In the case of the AONB, clauses (a) and (g) of Policy 96 provide specific guidelines governing new building and redundant buildings respectively. These provisions would come into play were the objector’s premises to



become redundant and I do not consider it necessary to add anything further to the policy by way of amplification, particularly as the reuse of rural buildings, including those in the AONB, would be adequately covered by Policy 106. I recommend that no modification should be made to the Plan in the light of objection 1961.

**(f) *Open air recreation and facilities on the Grand Union Canal.***

13.2.10. Clause (b) of the policy provides guidelines on the type of open-air facilities that would not be acceptable in the AONB and on the way in which other such facilities which were acceptable would need to be integrated into the landscape. Whilst the promotion of open air recreation is not an explicit objective of AONBs, PPG7 indicates that these areas should be used to meet the demand for recreation insofar as this is consistent with the objective of conserving the natural beauty of the areas.

13.2.11. I can find nothing in Policy 96 that conflicts fundamentally with this approach. I do not regard use of the term ‘informal’ outdoor recreation as inappropriate or over-restrictive. Nor do I think that the objector’s preferred alternative wording (‘low profile’ outdoor recreation) is in any way more accurate. Either of these terms could, it seems to me, be interpreted to include the type of activities referred to by the objector, such as angling and boating, which would be appropriate outdoor recreational activities in an AONB. Mooring basins and/or lay-bys on the Grand Union Canal are covered by a separate policy (Policy 113) which explicitly requires that proposals for such facilities in the AONB should be judged against the need to conserve the natural beauty of the landscape. This policy cross-refers to Policy 96. I conclude that no further changes are required to Policy 96 in order to meet this objection.

**(g) *Amendment of AONB Boundaries***

13.2.12. Objectors have put forward a number of proposals for minor changes to the boundaries of the AONB, notably at Tring, mainly in order to provide further opportunities for development. The responsibility for defining the boundaries of the AONB lies with the Countryside Agency, not the Borough Council. This is a matter therefore, which lies outside the local plan process. Consequently, it would not be appropriate for me to consider the merits of these proposed changes. Accordingly I make no recommendations in respect of these objections.

**(h) *Pre Inquiry changes.***

13.2.13. The Council has proposed a number of pre-inquiry changes to the policy to meet the concerns of objectors. PIC157 substitutes ‘conservation’ of the beauty of the AONB for ‘preservation’ as the prime planning consideration (objection 597). This brings the policy into line with PPG7. PIC158 introduces light pollution into clause (a) of the policy as a factor to be taken into account in considering new development (objection 1370). PIC159 clarifies the status of sites for chalk quarrying that have consent under an Interim Development Order (objection 4801). I agree that these modifications meet the objections and would improve the policy. Accordingly I recommend that they should be adopted.

13.2.14. PIC160 seeks to clarify paragraph 13.15 of the supporting text where it refers to the County Council’s role in respect of waste disposal and management. Again, I endorse this modification as it helps to make the Plan clearer. I do not consider that the

wording proposed by the County Council in counter objection 5311PC would be an improvement. I therefore recommend that PIC160 should also be adopted.

### **Recommendation**

13.2.15. The Plan be modified as follows :-

(a) amend Policy 96 by:

(i) altering the introductory paragraph to read :-

**“In the Chilterns Area of Outstanding Natural Beauty the prime planning consideration will be the conservation of the beauty of the area; the economic and social well-being of the area and its communities will also be taken into account. Any development proposal which would seriously detract from the beauty of the area will be refused and wherever development is permitted it will be on the basis of its satisfactory assimilation into the landscape.”**

(ii) amending clauses (a) and (c) in accordance with PICs 158 and 159 respectively;

(b) alter the supporting text in line with PIC160.

## **13.3. POLICY 97: LANDSCAPE CONSERVATION AREAS**

### **Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
365	Great Gaddesden Parish Council	1953	Taywood Homes Ltd
598	The House Builders’ Federation	3214	Flaunden Parish Council
1371	CPRE - The Hertfordshire Society	4036	HCC Environment Department
1808	Water End & Upper Gade Valley Conservation Society	4143	A J Patterson

### **Supports**

742	Herts & Middlesex Wildlife Trust	1898	Chiltern District Council
1573	Tring Town Council	4299	Mrs B Lea
1871	Countryside Agency	4959L	English Nature

### **Key Issues**

- (a) Should the Landscape Conservation Areas be reviewed on the basis of a landscape character assessment. Do the Landscape Conservation Area boundaries at Berkhamsted, Flaunden and Pouchen End Lane need to be revised. (1953, 3214, 4036,4143)
- (b) Ought the policy to identify particular features of the countryside which need to be respected or enhanced and should a detailed assessment be undertaken. (598)
- (c) Should the second paragraph refer to the appearance of development in the landscape by both day and night. (365, 1371, 1808)
- (d) Would the policy be improved if criterion (c) also included grassland management. (1371)

## **Inspector’s Conclusions**

### **(a) *Review of Landscape Conservation Areas (LCAs) and their detailed boundaries.***

- 13.3.1. The LCAs comprise a number of areas, mainly adjoining the AONB, which merit priority in terms of protection and improvement because of their special character and local landscape value. I agree that these areas should be reviewed, in accordance with the requirements of PPG7 and of Structure Plan policies 43 and 44, as suggested in objection 4036. I have already recommended in the context of Policy 95 that the Council should undertake a landscape assessment of the Borough at the earliest opportunity based on the approach set out in the Countryside Agency’s Countryside Character Assessment.
- 13.3.2. It would not, in my view, be sensible to undertake a review of the LCAs until this detailed assessment has been undertaken. I note that the Council proposes under FC96 to include a reference to such a review at the end of paragraph 13.18 of the supporting text. I agree that this would be helpful, but I think it is important that the statement should make clear the intention to complete such work in time for the next review of the Plan rather than “as resources allow”, which I consider to be unacceptably vague.
- 13.3.3. Pending such a review I do not think it would be appropriate to make detailed changes to the boundaries of the LCAs, including those at Berkhamsted, Flaunden and Pouchen End suggested by objections 1953, 3214 and 4143. I therefore make no recommendations in respect of them.

### **(b) *Particular features of the countryside***

- 13.3.4. The particular features of the countryside which need to be respected or enhanced are described in general terms in paragraph 13.19 of the supporting text. Whilst the policy itself may not fully comply with the advice in PPG7 I accept that this is as far as it is reasonable or possible to go pending the full countryside character assessment referred to above. Accordingly, I recommend no changes should be made to the policy in order to meet this objection.

### **(c) *Day and night appearance***

- 13.3.5. Turning to the details of the policy, I do not see the necessity to add a reference to the day and night visual impact of development on the countryside as suggested by objections 365, 1371 and 1808. In my view it can be taken as implicit that the ‘external appearance of development in the landscape’ will include the effects of any development on the appearance of these areas at night as well as during the day. Moreover, there is extensive guidance on exterior lighting in the Environmental Guidelines, which applies to the countryside generally. These criteria will apply to any new external lighting installed in conjunction with new development. I am satisfied that these guidelines would be sufficient to address the objectors’ concerns, even though I have recommended in Chapter 20 that they should be deleted from the Plan and issued instead as Supplementary Guidance.

**(d) Inclusion of grassland in criterion (c)**

- 13.3.6. I also consider that the maintenance of grassland is satisfactorily covered by criterion (a) ‘maintenance of existing landscape features’. In my view, there is no need to make special mention of it under criterion (c) as this refers to something rather different, namely the positive management of woodland. I, therefore, recommend that no modification should be made to the Plan in response to objection 1371.

**Recommendation**

- 13.3.7. **No modifications be made to the Plan in respect of Policy 97.**
- 13.3.8. **However, the supporting text to the policy should be modified to refer to a review of the Landscape Conservation Areas being undertaken before the next review of the Plan.**

**13.4. POLICY 98: LANDSCAPE DEVELOPMENT AREAS****Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
599	The House Builders’ Federation	1372	CPRE - The Hertfordshire Society

**Supports**

743	Herts & Middlesex Wildlife Trust	1872	Countryside Agency
1005	The Boxmoor Trust	4300	Mrs B Lea
1574	Tring Town Council	4960L	English Nature

**Key Issues**

- (a) Should the policy identify particular features of importance to avoid unduly restricting development. Does a detailed assessment of the Landscape Development Areas need to be undertaken similar to that produced for the residential areas of the towns. (599)
- (b) Should planting schemes be predominantly of locally native species. (1372)

**Inspector’s Conclusions****(a) Features of Importance**

- 13.4.1. This policy seeks positive action to improve the environment in urban fringe areas around the edges of Hemel Hempstead, Berkhamsted, Kings Langley and Markyate. The characteristics of these areas will obviously differ but they are generally described in the supporting text as suffering from conflicting land use interests, dereliction, vandalism, poor landscape quality and restricted opportunities for access to the countryside. In my view, the omission of these features from the policy itself would not unduly restrict development in these areas, bearing in mind that most of the Landscape Development Areas (LDAs) are also covered by Green Belt designation.
- 13.4.2. The Council has indicated that a review of LDAs will be considered once the further work on landscape character assessment has been undertaken. In the meantime I

cannot see that there is any merit in seeking to identify particular features of importance in each area or requiring a separate detailed assessment similar to that produced for the urban areas. The latter exercise would merely delay adoption of the present plan, which is not something I would support. Consequently I recommend no modification should be made to Policy 98 in respect of this objection.

- 13.4.3. However, I consider that it would be sensible for the supporting text to be amended to refer to the Council’s intention to undertake a review of LDAs in the context of the proposed landscape character assessment. This should indicate a clear time-scale for the completion of this work if it is to be consistent with the modifications I have previously recommended in respect of the supporting text to Policies 95 and 97. I recommend that the Plan should be modified accordingly.

**(b) Planting schemes**

- 13.4.4. I do not accept this objector’s suggestion that the policy ought to specify that any planting schemes undertaken within the LDAs should be predominantly of local native species. Any such schemes would also fall within the ambit of Policy 101 Tree and Woodland Planting which already states that all tree planting should, wherever possible, be with appropriate native broad-leaved species (*see section 13.7 below*). I see no need to repeat the point here and therefore recommend no modification should be made to the policy in respect of this objection.

**Recommendation**

- 13.4.5. **No modifications be made to Policy 98.**

- 13.4.6. **However, the supporting text should be modified to refer to a review of Landscape Development Areas in time for the next review of the plan.**

## 13.5. POLICY 99: HIGH QUALITY AGRICULTURAL LAND

### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
3760	Government Office for East of England	4037	HCC Environment Department
4016	HCC Environment Department	5113	Tring Environmental Forum

### Supports

1061	Ministry of Agriculture, Fisheries and Food	1373	CPRE - The Hertfordshire Society
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### **Key Issues**

- (a) Is it appropriate to refer to the MAFF classification system. (5113)
- (b) Should the policy direct development to the lowest grade of land where there is a choice or take greater account of its visual or wildlife importance. (4016, 4037)
- (c) Is the policy too strongly worded with regard to fragmentation of farms. (3760)

## **Inspector’s Conclusions**

### **(a) *MAFF Classification System***

- 13.5.1. I do not consider that it would be appropriate to delete reference to the MAFF Agricultural Land Classification System from the policy as suggested by the objector. PPG7 (as revised by the Planning Minister in his statement of March 2001<sup>1</sup>) refers to the best and most versatile (BMV) agricultural land as comprising Grades 1, 2 and 3a of the Agricultural Land Classification System. It would be contrary to PPG7 and to the Structure Plan to abandon this reference. To go even further and amend the policy so as to protect all ‘undeveloped’ land rather than just agricultural land would be tantamount to abandoning the policy altogether. There are other policies and proposals in the Plan that seek to ensure that development takes place, wherever possible, on previously developed land. This policy aims to protect the highest quality agricultural land in line with PPG7 and it would be wrong and misleading to change its essence in the way suggested. I, therefore recommend that no modification should be made to the Plan in response to objection 5113.

### **(b) *Development of the Lowest Grade Land***

- 13.5.2. As drafted, the first paragraph of the policy makes no explicit distinction between the development of Grades 1, 2 or 3a land. It merely indicates that development of any BMV land will be refused unless there is an overriding need and there is no alternative land of a lower quality available. PPG7 (as amended) makes it clear that development should be directed to the lowest grade land possible unless there are other sustainability considerations that suggest otherwise. I agree with the objector, therefore, that the inclusion of an additional sentence to convey this principle would help to clarify the policy. I recommend that Policy 99 should be modified accordingly.
- 13.5.3. Objections 4037 and 5113 make a different point, namely that lower grade agricultural land may have greater landscape and wildlife value than better quality land. As indicated above, PPG7 recognises that situations may arise where other sustainability considerations, including the quality of the landscape, biodiversity, accessibility, amenity value and soil quality may justify development of higher grade agricultural land in preference to land of a lower quality. I accept the contention of the Borough Council that such land may be protected by other policies in the Plan but in the interests of clarity and consistency with PPG7 I consider that reference to other sustainability factors should also be incorporated into the amendment referred to above. I further recommend that the supporting text should be expanded to explain and justify this amendment to the policy.

### **(c) *Fragmentation of Holdings***

- 13.5.4. The Council proposes under FC164 to amend the second paragraph of the policy to delete the reference to a “strong presumption against development which would fragment farm holdings”. Instead, it puts forward an alternative wording which sets out the criteria that would need to be satisfied in order to justify any fragmentation of farm holdings (FC164). In my opinion this meets the concerns expressed in objection

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<sup>1</sup> DETR News Release 155: 21 March 2001.

3760 and I accept that it clarifies and improves this part of the policy. Consequently, I am satisfied that the Plan should be modified in accordance with FC164.

### **Recommendation**

13.5.5. The Plan be modified as follows :-

(a) amend Policy 99 in accordance with the changes set out below:-

(i) add the following sentence to the first paragraph :-  
**“Where development is permitted on the best and most versatile land, it should use the lowest grade of land suitable for development except where the sustainable development objectives of the Plan would be better met by utilising land of a higher grade”**

(ii) amend the second paragraph as proposed in FC164.

(b) modify the supporting text to explain and justify amendment (i) above.

## **13.6. POLICY 100: PRESERVATION OF TREES, HEDGEROWS AND WOODLANDS**

### **Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
650*	HCC Environment Department	5114	Tring Environmental Forum
4038	HCC Environment Department		

### **Supports**

744	Herts & Middlesex Wildlife Trust	4301	Mrs B Lea
1374	CPRE - The Hertfordshire Society	4961L	English Nature
2956	Kathleen Williams		

### **Supports for pre-inquiry changes**

For pre-inquiry change 161			
5264PC	English Nature	5602PC	Mrs B Lea
5480PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 162			
5481PC	CPRE - The Hertfordshire Society	5603PC	Mrs B Lea
For pre-inquiry change 163			
5265PC	English Nature	5482PC	CPRE - The Hertfordshire Society
5604PC	Mrs B Lea		
For pre-inquiry change 164			
5483PC	CPRE - The Hertfordshire Society	5737PC	Tring and District Residents’ Association
5605PC	Mrs B Lea		

## **Key Issues**

- (a) Would the policy adequately protect hedges after development. (650, 4038)
- (b) Does the policy over-emphasise Tree Preservation Orders at the expense of trees in general. (5114)
- (c) Are Pre Inquiry Changes 161-164 appropriate.



## **Inspector’s Conclusions**

### **(a) *Protection of Hedges following development***

- 13.6.1. I am satisfied that the policy, as proposed to be modified by the Council’s pre-inquiry changes, will provide as much protection as is reasonable or possible, given the framework of the Hedgerows Regulations 1997, to hedgerows both during and following development. I appreciate the concern raised by objectors that the Hedgerows Regulations apply only to rural areas, not to urban areas. However the opening paragraph of the policy makes it clear that encouragement will be given to the preservation of hedgerows throughout the Borough.
- 13.6.2. The policy also cross-refers to the Environmental Guidelines in Part 5, Section 2, which state that natural features (including trees and hedgerows) should be retained and made an integral part of the layout and design of new development. These will be retained as Supplementary Planning Guidance if my recommendation in Chapter 20 is accepted and this cross-reference will need to be amended accordingly. The proposed addition of a further sentence to the second paragraph of the policy concerning the future management of trees, hedgerows and woodlands (PIC 161) covers their continued protection post-development, as does Policy 102 in its revised form, to which this policy cross refers.
- 13.6.3. I cannot see that the Council could reasonably go any further in seeking to protect hedgerows. I therefore recommend that no further changes should be made to the policy in response to these objections.

### **(b) *Overemphasis on Tree Preservation Orders***

- 13.6.4. I do not agree with the objector that the policy places too much emphasis on tree preservation orders as the means of protecting trees during the development process. Tree preservation orders are the main formal mechanism for protecting important trees and it is appropriate that the policy should set out the Council’s approach to their use. However, the policy (as proposed to be modified) goes beyond this. In particular, as stated above, it clearly sets out the overall intention to seek the preservation of hedgerows, trees and woodlands throughout the area. It also establishes the criteria that will be applied to minimise tree loss and damage and ensure appropriate new planting as part of the development process. These criteria should, in my view, be capable of addressing the particular concern highlighted by the objection, relating to the effect of new development on water infiltration and thus on tree stress. Accordingly I do not consider that any further modification to the policy is necessary to meet this objection.

### **(c) *Pre Inquiry Changes***

- 13.6.5. The Council’s pre-inquiry changes address the other points raised by objectors. PIC 161 adds a reference to orchards (objection 650) as well as covering the future management of trees, hedgerows and woodlands (*see paragraph 13.6.2 above*). PIC 162 refers to the removal of diseased and dangerous trees (objection 4038). PICs 163 and 164 add sections to the policy and the supporting text respectively, which address concerns relating to the application of the Hedgerows Regulations (objection 5114).



- 13.6.6. I consider that these modifications would generally provide greater clarity to the content and background of the policy. In the case of PIC 161, however, I cannot see the justification for transposing the words ‘trees’ and ‘hedgerows’ in the opening sentence of the policy. The title of the policy refers to trees, hedgerows and woodlands and I think that this wording is preferable. I therefore recommend that the Plan be modified in accordance with the pre-inquiry changes subject to this minor amendment.

### Recommendation

- 13.6.7. **The Plan be modified as follows:-**

- (a) **amend Policy 100 as set out below:-**

- (i) **change the first sentence to read:-**  
**“Encouragement will be given to the preservation of trees, hedgerows and woodlands (including old orchards) throughout the Borough.”**
- (ii) **alter the second paragraph in accordance with PIC161;**
- (iii) **revise the reference to the Environmental Guidelines to refer to them as supplementary planning guidance;**
- (iv) **incorporate PICs 162 and 163;**

- (b) **adapt the supporting text in accordance with PIC164.**

## 13.7. POLICY 101: TREE AND WOODLAND PLANTING

### Objection

<i>Rep No</i>	<i>Name</i>
4039	HCC Environment Department

### Supports

745	Herts & Middlesex Wildlife Trust	4302	Mrs B Lea
1375	CPRE - The Hertfordshire Society	4962L	English Nature

### Key Issue

- (a) Should the policy be more specific regarding appropriate trees and their maintenance. (4039)

### Inspector’s Conclusion

- 13.7.1. This policy already states that all tree planting should, wherever possible, be with appropriate native broad-leaved species. This is reinforced in the Environmental Guidelines, Part 7, which indicates that plant species should be native to the local area where possible. The supporting text refers to the Council’s Tree Strategy, which provides guidance on species and site selection.
- 13.7.2. This seems to me to cover the substantive point being made in this objection about the choice of trees and shrubs in new planting schemes. I recognise that this choice should ideally be informed by detailed landscape character assessments, which have not yet

been undertaken (*see section 13.1*). Meantime, I do not think it necessary to add anything further to the policy in respect of this objection, although it would be helpful to refer in the supporting text to the role of the Council’s Landscape Services as an important source of advice on appropriate species. Since I am recommending that the Environmental Guidelines should not be part of the Plan but appear instead as Supplementary Planning Guidance these should similarly be referred to in the text.

### **Recommendation**

13.7.3. **No modification be made to Policy 101**

13.7.4. **However the supporting text should be modified to refer to the Council’s Landscape Services and the Environmental Guidelines as an important source of advice on appropriate species**

## **13.8. POLICY 102 : TREES AND WOODLAND MANAGEMENT**

### **Objection**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
651*	HCC Environment Department		

### **Supports**

746	Herts & Middlesex Wildlife Trust	4303	Mrs B Lea
1376	CPRE - The Hertfordshire Society	4963L	English Nature

### **Supports for pre-inquiry changes**

For pre-inquiry change 165  
**5484PC** CPRE - The Hertfordshire Society  
 For pre-inquiry change 166  
**5485PC** CPRE - The Hertfordshire Society  
 For pre-inquiry change 167  
**5486PC** CPRE - The Hertfordshire Society

### **Key Issue**

(a) Are Pre Inquiry Changes 165, 166, and 167 and FC163 appropriate. (651)

### **Inspector’s Conclusion**

- 13.8.1. The points made in objection 651 would, in my view, be adequately covered by the additional references to the management of orchards in both the policy (PIC165) and the supporting text (PIC166) and by a mention of the role of the Forestry Commission’s Woodland Grant Schemes within the text (PIC167). I consider that these changes are both relevant and helpful and I recommend that they be adopted.
- 13.8.2. In addition the Council have proposed a further change to the scope of the policy to embrace the management of hedgerows as well as trees, woodlands and orchards (FC163). This seems sensible and is in line with the proposed change to Policy 100 mentioned above. Again, however, I cannot see the need to place this reference to hedgerows in front of trees, woodlands and orchards. Accordingly, I recommend a slight change should be made to the proposed wording.

### Recommendation

13.8.3. The Plan be modified as follows:-

(a) amend Policy 102 as set out below:-

- (i) alter the first sentence to read: “Appropriate management of trees standing as individual specimens, groups, woodlands or orchards and of hedgerows will be encouraged.”
- (ii) change the second sentence to read: “ The Council will carry out appropriate and sympathetic management of trees, woodlands and hedgerows within its control and will undertake new planting as required.”

(b) amend the supporting text in accordance with PICs 166 and 167.

## 13.9. POLICY 103: SITES OF IMPORTANCE TO NATURE CONSERVATION

### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
652	HCC Environment Department	4305	Mrs B Lea
748	Herts & Middlesex Wildlife Trust	4965L	English Nature
1575*	Tring Town Council	4981L*	English Nature
1576	Tring Town Council	4982L*	English Nature
1740	Mrs M Wilson	4983L*	English Nature
1778	Berkhamsted Town Council	4984L	English Nature
4040*	HCC Environment Department	4985L	English Nature
4304	Mrs B Lea		

### Counter Objections

To pre-inquiry change 169

5267PC	English Nature	5292PC	Tring Town Council
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### Supports

747	Herts & Middlesex Wildlife Trust	2876	British Waterways
1084	The Boxmoor Trust	2910	Environment Agency
1377	CPRE - The Hertfordshire Society	4964L	English Nature
1968	The Boxmoor Trust		

### Supports for pre-inquiry changes

For pre-inquiry change 168

5266PC	English Nature	5487PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 169

5488PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 170

5489PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 171

5268PC	English Nature	5490PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 172

5269PC	English Nature	5491PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 173

5270PC	English Nature	5492PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 174

5271PC	English Nature	5493PC	CPRE - The Hertfordshire Society
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For pre-inquiry change 175

5272PC English Nature

5494PC

CPRE - The Hertfordshire Society

**Key Issues**

- (a) Is it appropriate for the policy to give an equal level of protection to a range of nature conservation sites, contrary to PPG9, or should it be replaced by tiered policies. (4965)
- (b) Should wildlife Sites be shown on the Proposals Maps and be distinguished from ‘other sites’ in the policy. (652, 748, 4985)
- (c) Would the Plan be improved if it identified additional green corridors. (1740, 1778, 4304, 4305)
- (d) Are Pre Inquiry Changes 168-175 and Further Changes 7, 8, and 190 appropriate. (652, 1575, 1576, 4304, 4040, 4981, 4982, 4983, 4984)

**Inspector’s Conclusions****(a) *Appropriate levels of protection to nature conservation sites***

- 13.9.1. I am of the view that this policy, as currently drafted, is neither consistent with government policy nor with the adopted Structure Plan, since it does not adequately identify the appropriate levels of protection to be applied to sites of national and local importance. Paragraph 18 of PPG9 states that “local planning authorities should have regard to the relative significance of international, national, local and informal designations in considering the weight to be attached to nature conservation interests.” Paragraph 25 goes on to say that the policies in local plans “should have regard to the advice in this PPG on the relative significance of different designations”. Policy 38 of the Structure Plan similarly indicates that the degree of protection given to environmental assets will be appropriate to status, according to their international, national or local importance.
- 13.9.2. Although there are no sites of international importance in Dacorum, Policy 103 appears to give an equal level of protection to SSSIs, national and local nature reserves, regionally important geological and geomorphological sites, wildlife sites and other sites of biological, geological and physiographical importance. I do not accept the Council’s contention that the first sentence of the policy adequately defines levels of protection by use of the terms “loss, permanent damage and irreversible change”. It is not clear which of these would apply to which category of sites listed in the second paragraph of the policy. I appreciate that the adoption of a tiered approach, as suggested by the objector, inevitably lengthens the Plan but in the interests of clarity and consistency with national guidance, I consider this would be the best approach.
- 13.9.3. Accordingly, I have examined whether it is possible to adapt Policy 103 to meet the objection or whether it is preferable to split it up. As drafted, the policy is long and complex. To convert it into a single tiered policy would complicate it even further. I therefore conclude that would be better to split it into four policies dealing respectively with:
  - Sites of Special Scientific Interest
  - Nature Reserves and Regionally Important Geological or Geomorphological Sites
  - Other Sites of Wildlife and Nature Conservation Interest
  - Management of sites of Nature Conservation Interest

In my recommendations below I suggest appropriate wording for the three of these policies. The fourth and final policy I have already set out in paragraph 6.8.15 (f) of my report. These draw upon English Nature’s model policies, which are referred to in objections 4934L and 4965L to 4973L (*see section 13.27 of the report*), but retain most of the contents of Policy 103. I do not consider that it is necessary to incorporate the first paragraph of Policy 103 as this largely replicates Structure Plan Policy 3.

**(b) *Depiction of Wildlife Sites on Proposals Map***

- 13.9.5. I recognise that with over 200 non-statutory wildlife sites of widely varying size within Dacorum, sometimes overlapping with other designations such as SSSIs, nature reserves and conservation areas, it would be extremely difficult to depict all these sites on the Proposals Map in a clear and intelligible way. I also appreciate that these sites are subject to change and that a list in the Local Plan might become out of date quite quickly.
- 13.9.6. The solution suggested by the Council, which would meet the objectors’ point, would be to prepare and update Supplementary Planning Guidance on wildlife sites and to make reference to this in the relevant part of the policy. Since the Supplementary Guidance could be up-dated more readily than the Plan itself, this would also allow for the designation of new wildlife sites during the lifetime of the Plan. I recommend that the Plan be modified accordingly and have incorporated appropriate wording into the re-drafted policy below.

**(c) *Additional Green Corridors***

- 13.9.7. These objections suggest additional wildlife corridors for the woodland east of Miswell Lane and at Dundale in Tring and for the Bulbourne Valley from Northchurch to Bourne End in Berkhamsted. My understanding is that the green corridors are networks of interconnected urban natural green spaces that provide access for people to areas of wildlife and connect the urban area with open countryside. They are not separately depicted on the Proposals Map but are included within areas designated as Open Land (Policy 110) or Green Belt (Policy 3). Their extent is described in general terms within Policy 103, and comprises river or canal corridors, the disused railway line in Hemel Hempstead and other inter connected areas of open land.
- 13.9.8. The two areas that the objectors seek to be added to the policy in Tring are detached from the proposed green corridor and do not, in my view, constitute a separate corridor. The trees on both sites are protected under Policy 100 and their wildlife habitats would also, as I see it, fall within the general protection separately afforded to urban wildspaces by Policy 103. Accordingly I do not consider that there is any justification for adding these two areas to the green corridors named in the policy.
- 13.9.9. The Bulbourne Valley is already referred to in the green corridor in Berkhamsted. The objector wishes the description of this corridor to be extended to cover the whole of the valley throughout the Parish of Berkhamsted, from Northchurch to Bourne End and for the river to be restored to the surface where it has been culverted. Since the green corridors are intended to protect areas of wildlife within urban areas I do not consider that it would be appropriate to extend the description to rural areas in this way. In any event the nature conservation interest of the Bulbourne river valley as a whole is separately covered by Policy 104 and in my opinion this is adequate to meet the

concern of the objector. Consequently I recommend no change to the policy in response to this objection.

- 13.9.10. At present there is no specific reference to the green corridors in the supporting text. I consider that it would add to the clarity of the Plan if some brief additional background text were included to justify this part of the policy. This should explain that the definition of the green corridors is derived from the Dacorum Borough Nature Conservation Strategy.

**(d) *Pre-inquiry and further changes***

- 13.9.11. The Council has proposed a number of pre-inquiry and further changes to the wording of the policy, the supporting text and to the Proposals Map in order to correct factual errors and to meet other specific objections. Since these would help to improve both the accuracy and the clarity of the Plan I endorse these proposed changes. I recommend that they should be incorporated into the modified policies. However, in order to avoid undue repetition regarding appropriate mitigation measures I consider that this issue would be best addressed as a separate policy as recommended in paragraph 6.8.15 of my report.
- 13.9.12. I note that Objection 652 suggests the replacement of the term ‘critical natural capital’ in the opening paragraph of the policy and in the supporting text with ‘environmental capital’. It is argued that the former has now been superseded by the latter in the thinking of the Countryside Commission and others. I have no strong opinion on which term is preferable, but I note that use of the term ‘natural capital’ is consistent with the Structure Plan and that it is defined in paragraph 13.38 of the supporting text. In these circumstances I am not persuaded that there is an overriding need for the Plan to be modified in this regard.

Objection 4984L suggests that a Regionally Important Geological/ Geomorphological Site (RIGS) at Castle Hill, Berkhamsted has been omitted from the Proposals Map. However there is clearly a symbol to depict a RIGS site at the location referred to. No modification is therefore required to Proposals Map 2.

**Recommendation**

- 13.9.14. **The Plan be modified by replacing Policy 103 by the following three policies :**

**“POLICY 103A SITES OF SPECIAL SCIENTIFIC INTEREST.**

**Proposals for development which may have an adverse effect, directly or indirectly, on a Site of Special Scientific Interest will not be permitted unless there is an overriding need for the development which clearly outweighs the nature conservation value of the site itself and its role within the national network of such sites, and there are no suitable alternative sites for the development.**

**English Nature will be consulted on all applications affecting SSSIs**

**The sites to which this policy applies are listed below and shown on the Proposals Maps: [Insert List (A) from Policy 103]**

**POLICY 103B      NATURE RESERVES and REGIONALLY IMPORTANT  
GEOLOGICAL or GEOMORPHOLOGICAL SITES.**

Proposals for development likely to have an adverse effect on a Local Nature Reserve or a Regionally Important Geological/Geomorphological Site will not be approved unless it can be clearly demonstrated that there are reasons for the development which outweigh the need to safeguard the nature conservation value of the site.

In the long term the Council will develop a programme of designations to reach a standard of 1 hectare of local nature reserves per 1,000 population.

The sites to which this policy applies are listed below and shown on the Proposals Maps : [Insert lists B and C from Policy 103]

**POLICY 103C      OTHER SITES OF WILDLIFE AND NATURE  
CONSERVATION INTEREST.**

The impact of development proposals on Wildlife Sites and other sites of biological, geological and physiographical interest will be an important planning consideration, according to their rarity and value.

In considering proposals that would have an effect on a species of acknowledged importance, account will be taken of the level of protection afforded to that species and the sensitivity of the species and its habitat to any potential adverse effects caused by the proposals.

In urban areas existing local wildspaces will be protected. The nature conservation interest of selected local wildspaces and leisure spaces will be enhanced to ensure that all residential areas are within 280 metres of an area of local wildspace of 2 hectares.

The following green corridors will be protected and the nature conservation interest of open areas along their length enhanced :  
[Insert list from Policy 103].

The sites and species to which this policy applies include High Biodiversity Areas identified in local Biodiversity Action Plans and those supporting species protected by law or identified in the UK Biodiversity Action Plan as in need of particular conservation action. Definition will be by reference to English Nature, Hertfordshire Biological Records Centre and the Herts and Middlesex Wildlife Trust. The Wildlife Sites to which the policy applies are identified in the Habitat Survey for Dacorum which constitutes Supplementary Planning Guidance for the purposes of this Plan”.

- 13.9.15. The amendments in PICs 168 –175 and FCs 7, 8 should be incorporated into the lists within modified Policies 103A to C above and into the relevant supporting text and the Proposals Map.

## 13.10. POLICY 104: NATURE CONSERVATION IN RIVER VALLEYS

### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
366	Great Gaddesden Parish Council	2877	British Waterways
653*	HCC Environment Department	2911*	Environment Agency
1809	Water End & Upper Gade Valley Conservation Society	5045L	English Nature

### Supports

750	Herts & Middlesex Wildlife Trust	1967	The Boxmoor Trust
1378	CPRE - The Hertfordshire Society	4986L	English Nature

### Supports for pre-inquiry changes

For pre-inquiry change 176			
5273PC	English Nature	5617PC	Berkhamsted Town Council
5495PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 177			
5496PC	CPRE – The Hertfordshire Society		
For pre-inquiry change 178			
5497PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 179			
5274PC	English Nature	5498PC	CPRE - The Hertfordshire Society

### Key Issues

- (a) Should text referring to agencies be added to the policy. (366, 1809)
- (b) Does part (a) of the policy interfere with British Waterways’ permitted development rights. (2877)
- (c) Should the policy contain a strong presumption against built development in floodplains. (5045L)
- (d) Are PICs 176-179 appropriate. (2911)

### Inspector’s Conclusions

#### *(a) Reference to Agencies*

13.10.1. I do not consider that there is any need to add a reference to the Environment Agency, owners of land or parish councils to the opening paragraph of this policy, as suggested by the objectors. The principle responsibility for maintaining the rivers as wetland habitats lies with the Environment Agency who have their own consultation procedures, as does the Council in dealing with any development requiring planning permission. I see no necessity to complicate the policy by referring to the roles of the various players involved. I therefore recommend that no modification should be made to the Plan in respect of these objections.

#### *(b) British Waterways’ permitted development rights*

13.10.2. Nor do I think that clause (a) of the policy, which refers to “controlling building and engineering works.....”, necessarily impinges on British Waterways’ permitted development rights. Policies in the Local Plan would only come into play when development requiring planning permission is proposed and British Waterways’ permitted development rights are, by definition, therefore not affected. I would anticipate, nevertheless, that in exercising such rights British Waterways would have regard to the nature conservation purposes of this policy.



**(c) Built Development in Flood Plains**

13.10.3. Policy 104 relates specifically to the role of the river valleys in maintaining and enhancing nature conservation interests. I agree, therefore, with the Council that it is not appropriate to widen the scope of the policy, as suggested by the objector, to address this issue of the impact of built development on flooding.. This matter, although important, is already covered in the Environmental Guidelines, which deals with Flood Defence and the Water Environment. In addition, I have suggested that it would be appropriate for a new policy on flooding to be incorporated into the Plan. I therefore recommend no changes should be made to Policy 104 to meet this objection.

**(d) Pre-Inquiry Changes**

13.10.4. The four pre-inquiry changes proposed by the Council are designed to address a number of points raised by objectors. PIC 176 adds a new clause (f) on the restoration of culverted watercourses to the policy. I am satisfied this would adequately address objection 2911. PIC 177 amends the background text by referring to the relationship of Proposal TWA23 to nature conservation in the Gade Valley. PICs 178 and 179 add a further amendment to the text updating the background information on action plans contained in the local Biodiversity Action Plans. I consider that these three changes meet points raised in objection 653. However, in view of my recommendation in paragraph 17.38.15 of my report that Proposal TWA23 should be deleted I do not consider that it would be appropriate for PIC177 to be proceeded with.

13.10.5. In the circumstances, I find that PICs 176, 178 and 179 help to improve the policy and the explanatory text. I therefore recommend that only these changes should be adopted.

**Recommendation**

13.10.6. **The Plan be modified as follows:-**

- (a) amend Policy 104 in accordance with PIC 176;**
- (b) revise the supporting text in accordance with PICs 178 and 179.**

## **13.11. POLICY 105: LANDSCAPE AND NATURE CONSERVATION MANAGEMENT**

**Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
654*	HBRC	4041	HCC Environment Department
2878	British Waterways		

**Supports**

751	Herts & Middlesex Wildlife Trust	2912	Environment Agency
1379	CPRE - The Hertfordshire Society	4987L	English Nature
1873	Countryside Agency		

### **Supports for pre-inquiry changes**

For pre-inquiry change 180

5275PC English Nature

5499PC

CPRE - The Hertfordshire Society

For pre-inquiry change 181

5276PC English Nature

5500PC

CPRE - The Hertfordshire Society

### **Key Issues**

- (a) Should the policy encourage successful partnerships with land-owning businesses. (2878)
- (b) Does the wording of the policy preclude other potential measures. (4041)
- (c) Are Pre Inquiry Changes 180 and 181 appropriate. (654)

### **Inspector’s Conclusions**

#### ***Preliminary Matters***

- 13.11.1. I have considered firstly whether this matter justifies a separate policy. On the face of it, the statements it contains are not directly concerned with land use ends at all but with the means and mechanisms by which landscape and wildlife conservation objectives (i.e. Policies 95-98 and 103-104) will be achieved. I note that objection 4041 from the County Council similarly questions whether Policy 105 constitutes a development policy, since it merely identifies the organisations involved and measures to be employed in the management of sites and, in the view of the objector, is not comprehensive in doing so.
- 13.11.2. I recognise that Policy 105 has attracted a significant measure of support from English Nature, the Countryside Commission and other nature conservation agencies. The statement from the Borough Council, moreover, indicates that it has operated successfully since 1995. Nevertheless, in my view the statements it contains could satisfactorily be transferred to the background text supporting Policies 95 Landscape Strategy and/or 103 Sites of Importance to Nature Conservation (with appropriate cross-references). This would have the virtue of reducing the large number of policies in the Plan. My main recommendation, therefore, is that this should be done.
- 13.11.3. In case the Council chooses to retain the policy, however, I consider the specific objections below. Any changes recommended to the statements in the policy and supporting text should also be incorporated into the revision of the background to Policies 95 and/or 103 should my main recommendation above be adopted.

#### **(a) *Partnerships with Landowners***

- 13.11.4. Landowners would clearly be important partners in any initiatives to ensure good management of landscape and nature conservation sites. I can see no harm in adding a reference to the fostering of such partnerships to the opening paragraph of the policy. I therefore recommend that if the policy is retained that it should be modified accordingly.

#### **(b) *Restrictive nature of the Policy***

- 13.11.5. As indicated above, objection 4041 from the County Council points out that there are additional measures to those identified in clauses (a) to (f) which the Council could

employ, through its own efforts or through co-ordination with other bodies, to achieve landscape conservation objectives. Whilst I do not interpret Policy 105 as being restricted only to measures (a) to (f), I consider that it would not detract from the policy if an additional category to cover such positive measures were incorporated. Again I consider that the policy should be suitably modified if it is retained.

**(c) Pre Inquiry changes**

13.11.6. PICs 180 and 181 update the policy context in respect of local Biodiversity Action Plans and correct and clarify the background text to the policy. These changes would meet the concerns of objection 654 and I recommend that they should be adopted.

**Recommendation**

13.11.7. The Plan be modified by the deletion of Policy 105 and the transfer of the statements it contains, together with the Reasons and Background, to the supporting text to Policies 95 and/or 103 (with appropriate cross-references).

13.11.8. In addition, the statements contained in Policy 105 should be modified as follows:-

(a) by adding the following to the first paragraph :

“and by fostering appropriate partnerships with landowners, local environment and countryside forums and other interested parties”.

(b) by inserting a further clause along the following lines:-.

“(g) provision of appropriate financial assistance, advice and information on best practice to voluntary agencies and other bodies”.

(c) by including a reference to Local Biodiversity Action Plans in accordance with PIC 180.

13.11.9. The supporting text should be modified in accordance with PIC 181.

## **13.12. POLICY 106: AGRICULTURE, FARM DIVERSIFICATION AND REUSE OF RURAL BUILDINGS**

### **Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
367	Great Gaddesden Parish Council	1913	British Telecommunications plc
442	East of England Tourist Board	2957	Mr G Giddings
655	HCC Environment Department	3761	Government Office for East of England
1062	Ministry of Agriculture, Fisheries and Food	4713	Mrs B J Brown
1188	Mr C H Gray	4745	Bovingdon Parish Council
1810	Water End & Upper Gade Valley Conservation Society	4775	Faulkners
1811	Water End & Upper Gade Valley Conservation Society	4988L	English Nature

### **Supports**

1085	The Boxmoor Trust	1380	CPRE - The Hertfordshire Society
1253	The Chiltern Society		

## Key Issues

- (a) Should the wording be tightened up in relation to new agricultural buildings (367, 1810, 1811)
- (b) Is the policy too restrictive in relation to the expansion of businesses compared to Paragraph 3.3 (PPG7). (1062)
- (c) Should a reference be added on maintaining traditional farming practices. (655)
- (d) Should the policy be clearer in respect of the conversion of farm or other buildings in the countryside. Is a separate policy required. (4745)
- (e) Does the policy make clear whether holiday homes are appropriate. (442)
- (f) Should the policy or the supporting text include a reference to the need to protect wildlife. (1188, 4713, 4988L)
- (g) Is criterion (a) too restrictive. Does it conflict with PPG2 and PPG7. (3761)
- (h) Is criterion (b) necessary, (4775)
- (i) Should the policy allow buildings that require significant reconstruction to be rebuilt. (2957)
- (j) Should criterion (d) be amended to relate to industrial/commercial reuse only. (4775)
- (k) Does criterion (g) impose too onerous a burden. (3761)
- (l) Is criterion (h) reasonable. (4775)
- (m) Should the policy require evidence of redundancy. (4775)
- (n) Is the policy too strongly worded in respect of the residential use of redundant rural buildings. (1913, 4775)
- (o) Is the reference to affordable housing appropriate. (4775)
- (p) Should the removal of development rights be discretionary. (3761)

## Inspector’s Conclusions

### *(a) Need for tighter control over new agricultural buildings*

- 13.12.1. The objectors contend that there is a need for tighter controls over new agricultural buildings. They therefore suggest that the word “only” should be inserted in the first line of the first paragraph of the policy. In addition they seek the inclusion of an additional paragraph to indicate that permission will not be granted where the building would replace others which have been sold or demolished in the previous ten years.
- 13.12.2. Unlike agricultural dwellings many new agricultural buildings do not require planning permission. Consequently, they are not subject to the same level of detailed control in most cases. While I appreciate the objector’s concerns about the possible abuse of planning permission for agricultural buildings where the previous building has been demolished I can see no real harm in allowing another to be erected if there is a clear agricultural need for it. As for buildings being sold I doubt that this is likely to be a serious problem since farmers are unlikely to dispose of buildings which are still suitable for agricultural use.

13.12.3. Moreover, I am satisfied that the inclusion of the word “*genuinely needed*” in the first paragraph of the policy would enable the Council to resist applications for agricultural buildings that are not demonstrably required to meet operational requirements. In my view it would be perfectly legitimate for it to take on board any recent disposal of a suitable building in considering this issue. As such I do not consider that there is sufficient justification for the amendments sought by the objectors. In any event I consider that a ten-year embargo on new buildings would be unreasonable bearing in mind changes in agricultural practice and animal welfare legislation that could occur within such a period. In the circumstances, I recommend that no modification should be made to the policy in answer to objections 367, 1810 and 1811.

**(b) *Business expansion***

13.12.4. MAFF<sup>2</sup> argues that the limitation on new agricultural buildings is too restrictive in that it fails to take proper account for the needs of businesses to expand to meet changing market requirements. The Council acknowledges this and proposes under FC118 to amend the first paragraph to include a reference to changing market requirements. In my view, this change would reflect more closely the 2001 changes to PPG7 (CD6A), which seek, amongst other things, to help the farming industry to become more competitive and diverse. I therefore endorse the change.

13.12.5. I note in passing that the change also deletes the reference to permission being subject to normal siting and design criteria. Whether or not this was intentional is unclear. However, as all proposals would be also subject to Policy 9 I see no need for this reference to be retained. Consequently, I find it would be appropriate for the Plan to be modified in accordance with FC118.

**(c) *Maintaining traditional farm practices***

13.12.6. The objector seeks the addition of a reference to the importance of maintaining traditional farm practices where possible. In my view there is little that a development control policy could do to effectively achieve this. In any case as the Council point out PPG7 emphasises the need for flexibility to achieve economic use of land and rural buildings. As such I consider the inclusion of a reference to maintaining traditional farming practices would run counter to the thrust of national policy. I recommend therefore that no modification should be made to the Plan in response to objection 655.

**(d) *Need for a separate policy for farm buildings***

13.12.7. Bovingdon Parish Council argues that the policies governing the conversion of rural buildings are not clear enough and need to be reinforced by a separate policy giving clear parameters for acceptable conversions. Residential conversion should only be permitted in exceptional cases.

13.12.8. There is no doubt that Policy 106 is of significant length. However, all bar the first sentence effectively relates to the conversion of rural buildings. While I accept that it would normally be appropriate to deal with applications for new agricultural buildings separately from conversions in this particular case I do not consider that the removal of

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<sup>2</sup> Now part of the Department for the Environment, Food and Rural Affairs (DEFRA)

the first sentence of Policy 106 would significantly improve its clarity. In terms of the remainder of the policy I agree that its length and layout do militate against clearness. However there is little direct duplication and most of the criteria cover relevant matters that are rightly included. Whilst I would encourage the Council to look again at the policy to see if it could be shortened I do not consider that it is so lacking in clarity as to warrant formally recommending it be modified.

- 13.12.9. It seems to me that it does include the relevant parameters for considering planning applications for conversion and rightly indicates that residential conversions should be a last resort in line with the guidance in paragraph 3.15 of PPG7. I recommend that no modification should be made to the Plan in response to objection 4745.

**(e) *Holiday homes***

- 13.12.10. The policy already makes clear that reuse of rural buildings for tourism purposes would be appropriate. The more detailed advice in the Environmental Guidelines indicates that this would include visitor accommodation. I see no need for the Plan to be modified to add a specific reference to holiday homes, particularly as such a reference could be taken to include second homes which could be less acceptable.

**(f) *Protection of wildlife***

- 13.12.11. The objectors all seek the inclusion of a reference to the potential presence of protected species like barn owls and bats in rural buildings. The Council proposes to address these objections by inserting a reference within paragraph 13.62 of the supporting text.

- 13.12.12. As Policy 103C should ensure that adequate consideration is given to protected species in respect of all applications for development, I see no need for a specific reference to be included in Policy 106. While I understand the reasons why the Council proposes to include a reference in the supporting text (FC71) I see no real benefit to be gained from extending the already lengthy reasons still further to cover what is in effect an issue of detail. In my view the appropriate place for such a reference is in the Environmental Guidelines. I note that the Council proposes to include such a reference under the provisions of PIC285. I am satisfied that it would give sufficient prominence to this matter. I recommend therefore that no modification should be made to Policy 106 or its supporting text in the light of these objections.

**(g) *Criterion (a)***

- 13.12.13. The Government Office suggests that the reference to the proposal not displacing the existing use implies that a building would have to be redundant before permission would be granted for its reuse. It points out that this would conflict with the advice in PPG2 and PPG7. The Council accepts this criticism and proposes under FC70 to delete the reference to the displacement of the existing use. Since this would ensure that the policy was more closely in line with national advice and would address the objection I support it. I recommend that the Plan should be modified in accordance with FC70.

**(h) Criterion (b)**

13.12.14. Faulkners suggest that criterion (b) is unnecessary and should be deleted. The Council contends that this criterion is important to ensure that the countryside environment is maintained or enhanced. However, in my view the requirements of criterion (f), which accords with paragraph 3.14 of PPG7, would be sufficient to safeguard the character of the adjoining countryside. Insisting that there is no substantive change to the building goes further than recommended in PPG7 and in my view would be unduly onerous. In any case paragraph G4 of Annex G to PPG7 indicates that in some cases it may be appropriate to seek improvement to the external appearance of the building. This would strictly be prevented by criterion (b). I therefore recommend that criterion (b) should be deleted.

**(i) Reconstruction of buildings**

13.12.15. The objector suggests that it would be more helpful to diversification if the floor area and mass of existing buildings legitimately used for agriculture could be rebuilt to suite the new use. However, such an approach would directly conflict with the advice in paragraph 3.14(e) of PPG7 (CD6). I am satisfied that criterion (c) of Policy 106 correctly reflects national advice. I therefore recommend that no modification should be made to the Plan in response to objection 2957.

**(j) Criterion (d)**

13.12.16. Faulkners suggest that this criterion should be amended to relate to industrial and commercial use only. However, there is nothing in paragraph 3.14 of PPG7 to indicate that the requirement for a conversion not to lead to the dispersal of activity which would prejudice town or village vitality should be restricted to specific types of use. While requiring the use of the building to serve the local area goes further than the criteria in PPG7 I consider that it is a reasonable addition in light of the Government’s support for more sustainable forms of development. In the circumstances, I recommend that no modification should be made to the Plan in response to this element of objection 4775.

**(k) Criterion (g)**

13.12.17. The Government Office suggests that this criterion is too onerous and would make it difficult for the LPA to approve proposals involving the creation of curtilages. However, while the amended wording suggested by the objector would be slightly more positive in tone I find it to have effectively the same meaning as the current criterion. I am not satisfied therefore that its inclusion would significantly improve the Plan. Since the criterion would only restrict new fences, walls and other structures where they would harm the visual amenity of the countryside I consider that it complies with the advice in paragraph 3.16 of PPG7 and would not be unduly onerous. I see no need therefore for any modification to be made to the Plan in response to this part of objection 3761.

**(l) Criterion (h)**

13.12.18. The objector considers that this criterion disregards the need for parking, loading and unloading and is therefore too restrictive. The Council acknowledges that such uses

would have to take place outside the building and therefore propose under FC119 to add a further qualification to allow limited parking and servicing which is essential to meet the needs of the use. In my view this would add a sensible degree of flexibility to the criteria and I therefore endorse it. I recommend that the Plan be modified in accordance with FC119.

**(m) Redundant buildings**

13.12.19. Faulkners questions whether it is appropriate for evidence of redundancy for tenanted agricultural buildings in the light of the advice in Annex D to PPG7. The Council accepts this and proposes under FC70 to delete this sentence from the policy. As this change would bring the policy more into line with national advice and meet the objection I support it. I recommend that the Plan should be modified accordingly.

**(n) Residential reuse**

13.12.20. Paragraph 3.15 of PPG7 allows local authorities to give priority to business reuse over residential reuse of rural buildings in areas where the creation of local employment is a priority. It makes no mention of similar priority being accorded to recreation and tourism related use. In this regard therefore Policy 106 does not strictly comply with national guidance.

13.12.21. However, judging from the figures on rural residential conversions and from what I saw during my extensive time in the Borough there is clearly substantial pressure for residential conversions within the rural area. It seems likely therefore that opportunities for the reuse of rural buildings for recreation or tourism related uses would be severely limited unless they were accorded priority over residential use. Given the importance that paragraph 3.14 of PPG7 attaches to the role rural buildings have to play in meeting the needs of tourism, sport and recreation I am satisfied that these local circumstances are sufficient justification for the departure from national guidance that is proposed in Policy 106. My view is strengthened by the fact that the reuse of remote rural buildings for residential purposes is unlikely to be as sustainable.

13.12.22. I note the suggestion that with unemployment at less than 1% in the Borough it is not reasonable for business reuse to be given priority. However, it is clear from the Employment Technical Report (CD55) that unemployment in Dacorum November 1999 was 1.5%. 16% of the unemployed had been unemployed for more than one year. Although CD55 gives no break down for these figures in respect of different parts of the Borough I find no reason to believe that, as elsewhere, figures may well be higher in the rural area. While the figure may be low in national terms in the light of the obvious pressure for residential reuse and the Government’s support for maintaining the rural economy, I consider that it is not unreasonable for the policy to give priority to business uses. In consequence, I recommend that no modification should be made to the Plan in the light of these objections.

**(o) Affordable housing**

13.12.23. Faulkners again question the requirement that residential reuse must meet identified needs for affordable housing. While I understand that there is a significant need for affordable housing in the rural area the requirement goes well beyond national policy. Moreover, I doubt that the conversion of remote rural buildings to affordable housing



is likely to a sustainable use bearing in mind their likely inaccessibility by public transport. In the circumstances, I consider that restricting residential reuse to those that meet identified affordable housing needs would be unreasonable and should be deleted. I recommend that Policy 106 should be modified by deleting the reference to residential reuse meeting identified needs for affordable housing.

**(p) Removal of permitted development rights**

13.12.24. The Government Office indicates that the removal of permitted development rights should be discretionary. The Council argues that this is adequately covered by the use of the word normally. However, I do not accept this. To my mind it suggests that the Council would remove permitted development rights as a matter of course rather than assessing whether their removal is warranted in any particular case. In my view such an approach would be contrary to national advice. In the circumstances I consider that the wording proposed by the objector is to be preferred. It has the additional advantage of being briefer. I recommend that the Plan be modified accordingly.

**(q) Other matters**

13.12.25. If the Environmental Guidelines are removed from the Plan, as I have recommended, and are issued instead as supplementary planning guidance it will be necessary to modify Policy 106 to remove the reference to Part 5 of the Plan.

**Recommendation**

13.12.26. The Plan be modified by amending Policy 106 as follows:-

- (a) alter the first sentence in accordance with FC118;**
- (b) amend criterion (a) in accordance with FC70;**
- (c) delete criterion (b);**
- (d) revise criterion (h) in accordance with FC119;**
- (e) delete the sentence beginning “Evidence of redundancy....” in accordance with FC70;**
- (f) omit the sentence “Residential reuse must meet identified needs for affordable housing (see Policies 21 and 26)”;**
- (g) remove the sentence beginning “Part 5 of the Plan....” And substitute the following:-**  
  

**“More detailed guidance on the conversion of rural buildings is issued as supplementary planning guidance.”;**
- (h) delete the last paragraph of the policy and substitute the following:-**

**“Where planning permission is granted for new agricultural buildings or for the reuse of rural buildings permitted development rights may be removed where these would harm the visual amenity of the countryside or have a seriously detrimental effect on the openness of the Green Belt.”**

**13.12.27. The Council should review Policy 106 and its supporting text to see if it could reasonably be shortened.**

**13.12.28. FC71 be not adopted.**

### **13.13. POLICY 107: HEIGHT OF BUILDINGS**

#### **Objection**

<i>Rep No</i> 5115	<i>Name</i> Tring Environmental Forum
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#### **Support**

1381	CPRE - The Hertfordshire Society
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#### **Key Issue**

(a) Should Policy 107 be deleted. (5115)

#### **Inspector’s Conclusion**

13.13.1. The main thrust of this objection is that the attempt to control the height of buildings is contrary to national policy in that it runs counter to options for managing the density of development in order to restrict land-take. The objector considers that the design of any building should be considered on its merits and that this policy should be deleted.

13.13.2. I do not agree with this view. The density of development is only one of the factors that needs to be taken into account in achieving high quality design. Moreover it does not necessarily follow that a higher density always requires higher buildings. I appreciate that PPG3 seeks to make more efficient use of land. However, it also emphasises the importance of local planning authorities adopting policies that create places and spaces which have their own distinctive identity, which respect and enhance local character and which focus on the quality of the living environments that are being created.

13.13.3. It is therefore entirely reasonable and consistent with national planning policy for the Council to provide policy guidance to control the height of buildings. Dacorum is characterised by mainly low-rise buildings of one to three storeys. The policy allows for higher buildings in Hemel Hempstead Town Centre and also provides flexibility for higher buildings in other towns and large villages, subject to developments meeting key criteria relating to the character and appearance of the site and the surrounding area. In the countryside or small villages the policy would only exceptionally allow buildings above two storeys.

13.13.4. I am satisfied that this provides developers with appropriate guidance on where taller buildings might be acceptable without prejudicing the overall character of the

Borough. It does not, in my view, unduly inhibit the design of any building to be considered on its merits, which appears to be a key concern of the objector. I therefore recommend that this policy should be retained unchanged.

### Recommendation

13.13.5. No modification be made to Policy 107.

## 13.14. POLICY 108: ADVERTISEMENTS

### Objections

Rep No	Name	Rep No	Name
1382	CPRE - The Hertfordshire Society	1812 <sup>3</sup>	Water End & Upper Gade Valley Consvn Society
1779	Berkhamsted Town Council	2879	British Waterways

### Key Issues

- (a) Should additional text be added to Policy 108 to consider the impact of the sides and rear of advertisement hoardings. (2879)
- (b) Ought there to be greater enforcement to prevent temporary advertisements, which are attached to lampposts and car roof racks. (1779)
- (c) Should the policy seek to control advertisement clutter on multi-occupied buildings. (1382 and 1812)
- (d) Ought criterion (f) to refer to the need for cowlings on illuminated advertisements. (1382, 1812)
- (e) Should the words ‘as appropriate’ be deleted from the final paragraph of Policy 108. (1779)

### Inspector’s Conclusions

#### (a) *Sides and rear of advertisements*

13.14.1. I do not consider that additional text need be added to the policy to ensure that it covers the rear and side elevations of any advertisement. I accept that the impact of the structure of a hoarding can be just as intrusive visually as what appears on it. However, Section 336 of the Planning Act makes clear that the definition of an advertisement extends to any structure that is erected for the purpose of advertising. Application of the criteria in (a) to (c) in the policy should therefore ensure that the objector’s concerns are addressed.

#### (b) *Enforcement of temporary advertisements*

13.14.2. This objector seeks greater enforcement over temporary advertisements attached to lampposts or fixed to the roof racks of parked cars advertising sales, open days and other such events. I agree with the Council that the key issue here is whether or not

<sup>3</sup> Although the Council also refer to objections 1813 and 1814 in paragraph 5.1 of LPA Doc. No. 753 only one objection is registered on the database for Water End & Upper Gade Valley Conservation Society.

such advertisements fall within the advertisement control regulations. Policy 108 seeks to put in place policies that enable the enforcement of advertisement control. If an advertisement is erected which falls foul of the policy and the regulations, then the Council would be able to take appropriate enforcement action, but it can only work within the law. I do not think anything needs to be added to the policy specifically to cover the point.

**(c) *Multi-occupancy buildings***

- 13.14.3. Nor do I consider that additional text should be added to criterion (a) of the policy to ensure that particular attention is paid to advertisements on multi-occupied buildings so as to avoid excessive clutters of signs. Criterion (c) of the policy already requires that advertisements do not detract from the amenity and character of the surrounding area. This would apply to advertisements on buildings in multiple occupancy as well as anywhere else. Consequently, if there was likely to be any excessive clustering of signs it could be controlled under this provision. I conclude therefore that the objector’s concerns are met by the policy as it stands.

**(d) *Cowlings on illuminated advertisements***

- 13.14.4. These objectors wish to see additional text added to criterion (f) of the policy to require cowling to prevent upward glare on externally illuminated advertisements. Whilst I recognise that illuminated signs can add to light pollution in certain circumstances I do not think it would be reasonable to require cowling in every case. This part of the policy already indicates that the degree of luminance of an advertisement should not detract from the amenity of the area. This is further reinforced in the background text and in the Environmental Guidelines which indicate that the Council will have regard to technical guidance from the Institute of Lighting Engineers in determining how brightly advertisements should be illuminated.
- 13.14.5. Presumably if the Council conclude, after applying the above criteria, that cowling is required for any particular illuminated advertisement they can impose appropriate conditions. Moreover, areas outside the main urban areas are already included within an Area of Special Control where the authority can apply more stringent control over advertisements. I therefore recommend no modifications in respect of this objection.

**(e) *Deletion of ‘as appropriate’ from final paragraph***

- 13.14.6. The last paragraph of the policy refers to the Council’s use of enforcement powers. I do not consider that use of the words ‘as appropriate’ weakens the statement to any marked extent. I assume it is intended to convey that circumstances may arise where the Council chooses not to use its enforcement powers (for instance where an infringement is regarded as “*de minimis*”). However, if this not the case then I agree with the objector that the words should be deleted.

**Recommendation**

- 13.14.7. **The use of the term ‘as appropriate’ in the final paragraph of Policy 109 should be reconsidered and deleted unless it is envisaged that circumstances may arise where the Council’s enforcement powers may not be used.**

13.14.8. No other modifications should be made to the policy.

### 13.15. POLICY 109: ELECTRONICS COMMUNICATIONS APPARATUS

#### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
656	HCC Environment Department	2880	British Waterways
1216	British Horse Society	4794	The National Trust - Thames & Chiltern
1219	Orange Personal Communications Services Ltd	5116	Tring Environmental Forum
1220	Mercury Personal Communications Services Ltd		

#### Key Issues

- (a) Would the policy be improved if it were re-drafted in a more positive way. Should it distinguish between licensed/non-licensed operators (1219).
- (b) Are the provisions of the policy in respect of the Chilterns AONB and Conservation Areas appropriate. (1219,1220,4794)
- (c) Should additional text be added to state ‘that the siting of the apparatus will not have an adverse effect on sites and settings of features of nature conservation importance’. (656)
- (d) Are the references to particular technical solutions such as mast sharing, retractable structures in residential areas and the repositioning of antennae reasonable and appropriate. (1219, 1220)
- (e) Does the policy need to stipulate that permission will not be given where the only means of access to the site is by a footpath or bridleway. (1216)
- (f) Would it be appropriate for Article 4 Directions to be used to protect sensitive locations from inappropriate development. (5116)

#### Inspector’s Conclusions

##### (a) *Re-drafting of policy*

- 13.15.1. The objector considers that Policy 109 fails to strike the right balance between the technical needs of the telecommunications industry and environmental considerations, as advised by PPG8. It is suggested that a policy recommended by the Inspector and proposed for adoption in the City of Lincoln Local Plan would be a considerable improvement on the present draft.
- 13.15.2. I accept that the suggested alternative policy sets out very clear telecommunications criteria in a more positive way than Policy 109. Nevertheless it would be wrong simply to transpose a policy from one plan into another unless the circumstances of the two areas were very similar. As the Council points out in their rebuttal statement, the area covered by the Dacorum plan is very different from the Lincoln City Local Plan area. The latter covers a very tight urban envelope whereas Dacorum is a combination of three substantial towns, a number of villages and an extensive rural area, with an AONB, a Green Belt and a number of SSSIs. In addition I note that the Lincoln City policy pre-dates by several years the latest version of PPG8 (August 2001) which provides an updated set of national guidelines on the factors to be taken into account in assessing telecommunications proposals.

- 13.15.3. For these reasons I do not consider it would be appropriate to re-draft Policy 109 along the lines proposed. The first two paragraphs of the policy set out reasonably clearly and concisely the criteria against which proposals for electronic communications apparatus will be assessed. The objections relate mainly to the last four paragraphs of the policy, which are considered too detailed and restrictive. I deal with these below.
- 13.15.4. The objector also suggests that Policy 109 ought to distinguish between the needs of licensed code operators and others, and that a separate policy on non-licensed operators may be required. I do not think this is necessary. Whilst the scale of operations of licensed and non-licensed operators may differ, the land-use planning considerations are the same and the criteria set out in the policy should apply to both. I note that this is the approach adopted in the Lincoln City policy commended by the objector. I therefore see no need for the Plan to be modified in this regard.

**(b) *Chilterns AONB and Conservation Area***

- 13.15.5. The third paragraph of Policy 109 refers to the considerations that should apply in assessing proposals that affect the AONB and conservation areas. It indicates that “proposals located within or outside these areas which would have a detrimental effect in either case will not be acceptable.” In my view this statement is more stringent than the guidance in PPG8. The latter, whilst emphasising the need to safeguard areas of particular environmental importance, states that: ‘In National Parks and AONBs proposals should be sensitively designed and sited and the developer must demonstrate that there are no suitable alternative locations.’ In short, the emphasis is on the siting and design of telecommunications development rather than on prohibition.
- 13.15.6. For this reason, I conclude that the third paragraph of the policy, if it is retained, should be modified to delete the wording quoted above. This would meet the concerns expressed in objections 1219 and 1220. I reject the suggestion of objection 4794 that this part of the policy should be strengthened to a general presumption against development in the AONB.
- 13.15.7. An alternative approach and one which I favour would be simply to include a cross-reference within Policy 109 to the relevant policies dealing with the AONB (Policy 96) and conservation areas (Policy 116), since any telecommunications proposals would need to be assessed against these policies also. The Council should also consider whether a cross-reference to Green Belt policy (Policy 3) would be appropriate since PPG8 indicates that telecommunication development in Green Belts is likely to be inappropriate unless it maintains openness. I am mindful in this context that much of Dacorum’s AONB is also covered by Green Belt.

**(c) *Areas of nature conservation***

- 13.15.8. Objection 656 suggests that Policy 109 should also state that the siting of telecommunications apparatus should not have an adverse effect on sites and the setting of features of nature conservation importance. Rather different considerations apply in considering proposals affecting nature conservation interests than is the case with AONBs and urban conservation areas. It is not so much the visual impact of telecommunications development that is important but the overall effect on fauna and flora (including the effect of construction work). Whilst these matters are

satisfactorily covered by the provisions of Policy 103 (as recommended to be modified), I consider that there would be no harm in including a cross-reference to this policy within Policy 109 if my suggestion above is accepted. Otherwise I do not recommend that additional text need be added to the policy to meet this objection.

**(d) *Technical considerations***

13.15.9. Objections 1219 and 1220 express concern about the general tone of Policy 109 in seeking to impose particular technical solutions on operators, notably:-

- the specification of retractable aerials in residential areas
- the requirements regarding mast sharing
- the repositioning of antennae installed under permitted development rights

13.15.10. I have considered these points mainly against the guidance in PPG8, which encourages planning authorities to have regard to any technical constraints on the location and proposed development of telecommunication systems. It also encourages authorities and operators to explore possible alternative approaches, particularly the opportunities for mast and site sharing and the location and design of the apparatus.

13.15.11. Whilst Policy 109 is broadly consistent with this guidance I agree with the objections that in some respects it is expressed in an unnecessarily prescriptive manner. I accept, for instance, that it is not reasonable to impose retractable structures in residential areas on all operators, some of whom may be providing a 24-hour service as part of a national network. Similarly, whilst the sharing of existing masts is entirely consistent with PPG8, the way in which the requirement is expressed - i.e. for operators to show “conclusively that there are technical difficulties which preclude sharing” - seems particularly demanding. The same applies to the last sentence of paragraph four, which implies that only in exceptional cases will permission be granted for new masts.

13.15.12. In my view a further clause should be added to the general criteria (a) to (e) in Policy 109 to cover technical points such as these. This would also meet objection 2880, which similarly calls for an additional criterion referring to alternative technical solutions such as underground fibre optic cables. The wording of paragraph 4 would need to be modified to bring it more closely into line with PPG8.

13.15.13. The final paragraph of Policy 109, concerning the repositioning of poorly located antennae installed under permitted development rights, is consistent with PPG8 (Appendix, paragraph 47), which indicates that a local planning authority may serve a breach of condition notice where it feels that the condition of a permitted development right has not been complied with. I do not regard the paragraph as confrontational or inappropriate to a local plan policy, as suggested by objector 1220. Consequently I recommend that no modification be made to this part of the policy.

**(e) *Footpaths and Bridleways***

13.15.14. I do not consider that it would be appropriate to add a provision to Policy 109 to preclude telecommunications installations where the only access is by public footpath or bridleway. If an operator secures rights to use a route over which there are already private vehicular rights there is no reasonable justification for planning permission to be refused. Policy 9, criterion (f) of the Plan already requires all development to demonstrate that a satisfactory means of access is available that will not cause or

increase danger to pedestrians and road users. Although there may occasionally be inconvenience to users of footpaths and bridleways during the construction or maintenance of telecommunications masts I do not think Policy 109 could reasonably be extended to address such concerns.

**(f) Article 4 Directions**

13.15.15. The objector seeks a stronger framework to control telecommunication towers through the use of Article 4 directions to protect sensitive locations. PPG8 (Appendix, paragraph 19) stresses the importance of recognising a real and specific threat to a locality before permitted development rights for telecommunications apparatus are removed. As the Council point out in their rebuttal statement, sensitive locations such as the AONB, conservation areas and areas of nature conservation are already protected by other relevant policies in the Plan. I have recommended above that cross-references should be included within Policy 109 to these policies.

13.15.16. The Council has indicated that they are satisfied that there is no pressing justification for Article 4 directions to be imposed in relation to Policy 109. I concur with this and therefore recommend no modification to the policy to meet this part of objection 1220.

**Recommendation**

13.15.17. **The Plan be modified as follows :-**

**(a) amend Policy 109 by :-**

**i) adding a further criterion to the first paragraph as follows:-**

**“(f) the feasibility of alternative technical or operational solutions to minimise the impact on visual amenity, including the sharing of existing sites or masts, the installation of antennae on an existing building or other structure and, in residential areas, the use of retractable aerials.**

**ii) deleting the second paragraph.**

**iii) revising the third paragraph either by deleting all the text after “historic character” and adding a reference to Green Belts, or by replacing it with: “In applying the above criteria to any proposals within or affecting the Chilterns Area of Outstanding Natural Beauty, conservation areas, the Green Belt or areas of nature conservation, particular regard will be had to the provisions of Policies 96, 116, 3 and 103 respectively.”**

**iv) deleting the fourth paragraph and substituting alternative wording along the following lines:**

**“Applicants for new high radio masts will be expected to show evidence that they have fully explored the possibility of erecting the antennas on an existing building, mast or other structure. Where permission is granted for any new high radio mast the Council will seek to ensure that the new mast will have sufficient spare capacity to accommodate future**



**demand for new aerals in the locality”.**

**13.16. POLICY 110: OPEN LAND IN TOWNS AND LARGE VILLAGES**

**Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
2	Mr E J Dyer	2825	Mr Christopher Halls
373	Thames Valleys Water plc	3091	South Hill Church
657*	HCC Environment Department	4235	J C Charcharos
1073	Markyate Society	4273	Tring and District Residents’ Association
1384	CPRE - The Hertfordshire Society	4306	Mrs B Lea
1538	The Crown Estate	4452	D B Rees (Builders) Ltd
1577*	Tring Town Council	4545	John Dickinson Stationery Ltd
1682	Mr P Witt & Ms S Wareham	4916L	Jean Plant
1831	Wilcon Development Group Ltd	5001L	The Trustees of Corner Farm

**Counter Objections**

To pre-inquiry change 184			
5330PC	Wilcon Development Group Ltd	5726PC	English Partnerships
5669PC	Apsley Developments Ltd	5755PC	Felden Park Farms Ltd
5706PC	Lucas Aerospace		
To pre-inquiry change 185			
5668PC	Apsley Developments Ltd	5756PC	Felden Park Farms Ltd
To pre-inquiry change 186			
5331PC	Wilcon Development Group Ltd	5576PC	Mr & Mrs D J Proctor

**Supports**

229	Mr & Mrs M D Quincey	1874	Countryside Agency
752	Herts & Middlesex Wildlife Trust	4989L	English Nature
1383	CPRE - The Hertfordshire Society	5166	Mr Tony McWalter MP

**Supports for pre-inquiry changes**

For pre-inquiry change 182			
5501PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 183			
5502PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 184			
5503PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 185			
5504PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 186			
5338PC	Nettleden with Potten End Parish Council	5382PC	Mr J Savage
5380PC	Mrs S Savage	5505PC	CPRE - The Hertfordshire Society
For pre-inquiry change 187			
5506PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 188			
5507PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 189			
5508PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 190			
5509PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 191			
5510PC	CPRE - The Hertfordshire Society		

**Key Issues**

**General**

- (a) Is it appropriate for infilling to take place on some open land. (2825)
- (b) Does the policy allow sufficient flexibility for the development of social and community facilities. (3091)

**Hemel Hempstead**

- (c) Is the Hemel Hempstead Open Land Strategy Map consistent with the key. (657)
- (d) Should H15A be identified in the Plan. Ought the open space notation to be changed. (5330PC, 5669PC, 5755PC)

- (e) Does the boundary between open space and adjoining uses at Breakspear Way need to be identified on the Proposals Map. (5706PC, 5726PC)
- (f) Should the open land/green wedge at West Hemel Hempstead be established as part of the development brief. (1831)
- (g) Is it appropriate for the diagram to be amended to show the land forming West Hemel Hempstead Phase III (H54) as falling within the countryside. (5331PC, 5576PC)
- (h) Should the land between Westwick Farm and Green Lane be removed from the open land designation. (1538)
- (i) Should the former Albion Public House remain as open land. (4452)
- (j) Is it appropriate to allocate the John Dickinson’s Stationery Complex as open land. (4545)
- (k) Should the Open land Strategy Diagram for Hemel Hempstead indicate public open space around the Manor Estate. (5668PC, 5756PC)
- (l) Should the open land designation be removed from land adjoining South Hill Church. (3091)
- (m) Should Corner Farm be excluded from the open land designation. (5001)
- (n) Should High Street Green Tower, Hemel Hempstead remain as open land. (373)

#### Berkhamsted

- (o) Should Sunnyside Allotments, Berkhamsted remain as open land. (2)

#### Tring

- (p) Should the open space and recreation places in Tring be protected. (4235)
- (q) Whether there are errors or omissions in the Open Land Strategy for Tring that need to be corrected. (4273, 4306)
- (r) Should the strategy diagram and background text be amended in relation to the Miswell Lane open space area. (4306, 4273)
- (s) Is it appropriate to include a reference to Dundale School becoming redundant. Should Goldfield School be added to the Open Space map for Tring. (4306, 4273)
- (t) Does the land between Tring Conservation Area and the by-pass merit being designated as open land. (1384)
- (u) Is the text relating to Tring accurate. (1577)
- (v) Does the background text under Tring (b) reflect that the land includes woodland and a lake and is a wildlife site. (657)

#### Kings Langley

- (w) Should the Kings Langley Open Land Strategy Diagram be amended. (1682)

#### Markyate

- (x) Should H56 be designated as open land. (1073, 4916)

## Inspector’s Conclusions

### General

#### **(a) *Infilling on open land***

- 13.16.1. The objector suggests that while the retention of characteristic open spaces is justified, some infilling would be preferable to further eradication of Green Belt land. Government advice, as set out in PPG3 (CD3A), makes clear that in looking for suitable housing sites one should look first at previously developed land within the urban area and then at urban extensions. It goes on to state that developing more housing within urban areas should not mean building on urban green spaces. PPG17 indicates that the Government attaches great importance to the retention of recreational and amenity open space in urban areas as it makes an important contribution to the quality of urban life. It is very clear therefore that the retention of open space within towns is of equal importance to the protection of the surrounding countryside.
- 13.16.2. While developing green spaces within towns may occasionally be more sustainable than extending the urban area into the surrounding Green Belt this has to be carefully assessed. I certainly do not consider that it justifies allowing infill development on defined open spaces within the urban areas of Dacorum as a matter of course. The objector does not suggest which areas of open land he considers would be suitable for such infilling. I was unable to identify any defined open space that, in my view, was obviously more suitable for development than any of the Green Belt sites proposed by the Council. In the circumstances, I recommend that no modification should be made to the Plan in response to objection 2825.

#### **(b) *Flexibility for social and community facilities***

- 13.16.3. The objector seeks to develop open land, which was formerly part of the South Hill School playing fields, as a car park for the adjoining South Hill Church so that an extension can be built on the existing car park. It points out that the land has been fenced off from the school and is no longer maintained. It suggests that it could be developed for a car park without damaging the important trees on the site. Concern is raised, however, that Policy 110 is currently too restrictive in that it would not permit development for important social and community purposes even where this would not result in an overall loss of openness.
- 13.16.4. I have already dealt with the linked objection which seeks the designation of the site as a Social and Community Proposal at paragraphs 11.11.1 to 11.11.5 of my report and I address the issue of whether the land in question merits retention as open land under issue (l) below. I propose therefore to deal here solely with the issue of whether or not Policy 110 is too restrictive in relation to social and community facilities. In considering this issue it is clearly also necessary to take into account Policy 7 since the two policies are directly linked and it is the latter which effectively defines appropriate development on open land.
- 13.16.5. Policy 7 at present states that uses that are open in character and serve education, leisure or nature conservation purposes will be retained and encouraged in open land areas. Policy 110 then lays down criteria for assessing ancillary development related to such uses. While Policy 110 does not prevent all development related to

inappropriate uses it makes clear that it must not have a significant adverse impact on the character or environment of the site or its open land setting and that it should result in an overall environmental improvement.

- 13.16.6. The inclusion of leisure and nature conservation as appropriate uses is understandable. Education uses are included because many of the open land areas within the Borough’s towns are school grounds or playing fields. However, there are other areas of open space that include churches or community halls. Moreover I saw that the Council has in some instances permitted the extension of such buildings or even allowed new buildings to serve these purposes to be erected on open land, as in the case of the new church at Cupid Green (C3). It is clear therefore that the Council recognises that such uses also serve an important function to the community.
- 13.16.7. The question therefore is whether a change to the Plan policies is necessary in order for appropriate social and community facilities to be permitted. While the evidence would suggest that the Council has in the past interpreted the policies with a significant degree of flexibility in this respect I consider that it would make more sense for the need for such flexibility to be properly recognised in the Plan. In my view therefore it would be sensible for Policy 7 to be amended so as to identify social and community uses as being appropriate in principle on open land. Such a change would be unlikely to lead to significant additional building on open land since the needs of such uses are unlikely to be substantial. More importantly I am satisfied that it would not have a damaging impact on the character or appearance of open land areas, as such development would still be covered by the criteria in Policy 110. These would require, amongst other things, that it does not compromise the integrity and future of the wider area of open land.
- 13.16.8. In the circumstances, I find that the introduction of social and community uses into criterion (ii) in the open land areas section of Policy 7 would introduce a useful element of flexibility into the policy without damaging the character of the open land areas. I see no need, however, for any changes to be made to Policy 110 since I consider that the criteria it contains are necessary to safeguard the contribution areas of open land make to the quality of the urban environment. I therefore recommend that Policy 7 should be modified to provide for social and community uses on open land areas (*see my recommendation in paragraph 5.1.58 (c)*).

### Hemel Hempstead

#### **(c) Consistency of map**

- 13.16.9. The objector suggests that the Open Land Strategy map for Hemel Hempstead is inconsistent in the manner it defines the edge of the countryside. It is argued that where it shows a proposed edge this should be delineated on the key. The Council has made no direct response to this objection.
- 13.16.10. In my view the Plan is intended to show the open land strategy for the period of the Plan (i.e. up till 2011). Within this context I consider it is entirely reasonable for it to show the edge of the countryside as it is intended to be following the implementation of the Plan’s proposals. To show the edge of the countryside as it is now would fail to reflect the Plan strategy. I am not satisfied that there is any inconsistency in this

regard. I therefore recommend no modification should be made to the Plan to address this element of objection 657.

**(d) *H15A and changes to the open space notation***

13.16.11. These objections relate to the designation of the additional housing proposal site at Breakspear Way (H15A) and the associated changes to the area of open space that is identified on the Open Land Strategy diagram for Hemel Hempstead. I have already considered the issue of the use of land at Breakspear Way for housing in Chapter 7 of my report (*see section 7.53*) where I have concluded that it would be inappropriate for this land to be allocated for this purpose in view of its poor sustainability. I have therefore recommended that it should not be proceeded with. If this recommendation is adopted it would not be necessary for the changes to the area of open space identified on the strategy diagram to be amended as proposed under PIC184. I therefore recommend that it should not be adopted.

13.16.12. However, I also concluded that the loss of open space would not, in itself, have warranted the rejection of the housing proposal. If the Council should decide to reject the recommendation or alternatively to pursue the use of the land for employment, as I have suggested in Chapter 8 of my report, I consider that the amendment to the Open Land Strategy diagram proposed by PIC184 would not, in itself, be unacceptable.

**(e) *Definition of boundary between open space and adjoining uses at Breakspear Way***

13.16.13. The objectors suggest that it is inappropriate at this stage to define the precise boundary of the area of open space that is to be retained at Breakspear Way on the Proposals Map. It is suggested that it would be better for this matter to be dealt with under the development brief. I have already addressed this issue at section 7.53 of my report where I concluded that the area indicated on the Proposals Map as being retained as open space is the minimum area that would be required to retain a reasonable green gateway to the town. To leave definition to the development brief stage would not, in my view, provide sufficient clarity. It would therefore be contrary to the advice in PPG12. Consequently, I see no need for any modification to the Plan in response to these objections.

**(f) *Definition of open land at West Hemel Hempstead***

13.16.14. Again this objector considers that it would be more appropriate to define the precise location and extent of open land at West Hemel Hempstead as part of a development brief. For reasons I have already given I consider that such an approach would not provide sufficient clarity. Moreover, the definition on the Proposals Map and the Open Land Strategy diagram would not prevent minor changes to the boundary at a later stage if this were determined to be necessary in the light of the circumstances prevailing at the time. Consequently I find insufficient justification for the Plan to be modified in this respect.

13.16.15. In any case in the light of my recommendation in paragraphs 7.33.98 and 7.44.23 the question of open space at West Hemel Hempstead may well be academic. However, if the Council should decide to retain the housing proposal sites at West Hemel Hempstead I would recommend that the Council reconsiders the actual area that it allocated in the Plan for open space as suggested in paragraphs 7.33.33 and 7.33.34.

**(g) *Proposed change to edge of countryside in relation to H54***

13.16.16. Wilcon Development Group and Mr and Mrs Proctor object to the change proposed to the Open Land Strategy diagram under PIC186, which shows the area of West Hemel Hempstead as being retained in the countryside. This change is consequential on PIC52, which proposes the deletion of housing site H54. In the light of my conclusions in paragraph 7.47 of my report where I have concluded that the deletion of H54 would be appropriate I consider that the amendment proposed to the Open Land Strategy diagram would be sensible. I therefore endorse PIC186 and recommend that the Plan should be modified accordingly.

**(h) *Land between Westwick Farm and Green Lane***

13.16.17. This objection is related to objection 1537, which I have considered at paragraphs 7.43.49 to 7.43.51 of my report. I have concluded that the wedge of open land between Westwick Farm and Green Lane is of considerable importance not only because of its visual amenity but also in terms of the contribution it could make to meeting the longer term recreational needs of the local population. I see no justification therefore for the Open Land Strategy diagram being amended in response to this objection. I therefore recommend that no modification should be made to the Plan in the light of objection 1537.

13.16.18. However I would point out that if the Council decides to amend the location of Housing Proposal Site H50 in the light of my recommendation in paragraph 7.43.63 of my report, it will also be necessary to make a consequential amendment to the Open Land Strategy diagram.

**(i) *Former Albion Public House***

13.16.19. The objector considers the inclusion of the site of the former Albion Public House as open land is inappropriate as it would impose inappropriate constraints on the potential development of the land. The Council accepts that in the light of the decision to grant planning permission for residential use on this site the open land designation should be deleted. It therefore proposes to amend Sheet 6 of the Proposals Map under PIC182 to reflect this.

13.16.20. Since this site no longer constitutes open land I consider that the Council’s proposed change is reasonable. I therefore support it and recommend that the Plan be modified in accordance with PIC182.

**(j) *John Dickinson Stationery Complex***

13.16.21. The objector questions whether it is appropriate to apply an open land designation to land occupied by a factory building and hardstanding. However, since the objection was submitted planning permission has been granted for the redevelopment of the site for housing and this has now been substantially completed. As I understand it the open land designation on Sheet 6 of the Proposals Map was intended to show those areas of the site that were to be retained as open space. I consider that this is a reasonable approach. However, the Council will need to check that the boundaries of the open space area on the Proposals Map actually coincide with what has been

provided. Any discrepancies should be rectified before the Plan is adopted in order to avoid any future confusion.

**(k)      *The Manor Estate***

13.16.22. These objections seek the retention of the housing sites originally proposed on land adjoining the Manor Estate (TWA6 and TWA7) and the associated open space proposals (TWA24 and TWA25). In the light of my conclusions in sections 4.32, 17.22 and 17.23 of my report I have recommended that the housing sites at the Manor Estate should remain in the Plan. In the circumstances I consider that the open space proposals should also be retained and that the amendment to the Open Land Strategy diagram proposed under PIC185 should not be proceeded with.

**(l)      *Land adjoining South Hill Church***

13.16.23. The Church argues that since the land is poorly maintained and generally screened from surrounding roads by adjacent buildings it serves little useful purpose as open space. It considers that its designation as open land could reasonably be lifted.

13.16.24. I accept that the area has been fenced off from the adjacent school playing fields and would appear to be no longer well maintained. I also acknowledge that this part of the open land area is not readily visible from the surrounding roads. However, I note that there is an informal footpath across it that links Heath Road and Cemetery Road. This appears to be fairly well used. More importantly, it contains a number of large mature trees, which form a prominent feature from the other side of the valley. As the only remaining open area on the western slope of the Gade Valley I consider this area and the trees upon it make an important contribution to the townscape, particularly when considered in conjunction with the adjoining school grounds. In the circumstances, I consider that its designation as open land under Policy 110 remains appropriate.

13.16.25. I have considered whether the needs of the Church would warrant nevertheless removing the designation. However, while I have no doubt that the need for the church to expand is of considerable importance I am not satisfied in this case that it would warrant removing the open land designation on the objection site. My view is strengthened by the possible impact the development of a car park on this site would have on the mature trees. In this regard I take particular note of the objector’s arboricultural consultant’s comments regarding the incompatibility of large trees and parking and the sensitivity of the outstanding specimen black pines in the centre of the site to compaction. In the circumstances, it seems extremely doubtful that even if the open land designation were lifted that a parking scheme could be designed which would ensure the long term retention of these important trees. I therefore recommend that no modification should be made to the Plan in response to this element of objection 3091.

13.16.26. In reaching this conclusion I have taken into account the examples mentioned by the objector of where planning permission has been granted for inappropriate development within areas of open land. However, there appeared to be particular circumstances in those cases that do not apply in this situation. Even if there were not, I do not consider that this would justify releasing more open land. If anything I find such development strengthens the need to safeguard the openness of the remaining areas of open land. I

have noted the arguments regarding the Park and Ride site at Breakspear Way but as the exact site for this has not yet been determined I attach limited weight to this point.

**(m) Land at Corner Farm**

13.16.27. This objection seeks the removal of the open land designation on an area of land of some 0.49 hectares which lies adjacent to the west of Redbourn Road between Link Road and Pennine Way. The land is currently occupied by Corner Farm, which is a Grade II listed timber framed building dating from the C17th. The building is currently vacant and in disrepair. To the west of the site is a large open space occupied by playing fields while to the south and east are industrial areas. To the north of Link Road lies the large residential area of Grovehill.

13.16.28. Although the land is occupied by Corner Farm and its associated outbuildings these lie at the very southern end of the site adjacent to Pennine Way. The majority of the land remains entirely open in character. In view of its prominent location adjoining a major road junction and next to a large area of open space I consider that the openness of the site makes a significant contribution to the wider townscape. The fact that it is privately owned and there is no public access is not in my view sufficient reason for the removal of the open land designation. PPG17 makes clear that open space, whether or not there is public access to it, can be important for its contribution to the quality of urban land. In my view this land falls into this category owing to its location and character. It also helps to provide a clear distinction between the Maylands Industrial Estate and the residential area of Grovehill.

13.16.29. I appreciate that the listed building is currently considered to be “at risk”. However, I am not satisfied that this warrants amending the open land status of this site, particularly as the building forms such a small part of the area. Whether the condition of the building would warrant allowing some enabling development in order to provide for its restoration could in my view only be determined on the basis of full details of financial costings and other more detailed evidence on the current owner’s marketing strategy. This evidence is not available to me. The open land status would not prevent such development taking place if the Council were satisfied it was justified.

13.16.30. The adjoining industrial estate and the intensification of commercial activities in the area clearly cause problems for its residential re-use but I am not satisfied that it would necessarily make such use totally unviable. Overall therefore I do not consider there are sufficient grounds for removing the site’s open land designation. I recommend that no modification be made to the Plan in response to objection 5001L.

**(n) High Street, Green Tower**

13.16.31. The objector seeks the removal of the open land designation on an area of land of approximately 0.8 hectares at the junction of High Street and Farmhouse Lane. The site is currently occupied by a water tower but adjoins the Widmore Wood open land area to the north.

13.16.32. Although there is a large structure on the land most of the site remains open. As such I consider it relates more closely in visual terms to the open land to the north than to the land to the south side of Farmhouse Lane or to the adjoining industrial estate to the east. I agree therefore with the Council that it forms a useful buffer between Widmore



Wood and the adjoining industrial estate. In the circumstances, I am satisfied that it does make a contribution to the open land strategy.

- 13.16.33. Since Policy 7 allows for the development of essential utility services on open land I do not consider that this designation would place an unreasonable restriction on the landowner in this case. I find insufficient justification therefore for removing the site’s open land designation. Consequently, I recommend that no modification should be made to the Plan in answer to objection 373.

#### Berkhamsted

##### **(o) Sunnyside allotments**

- 13.16.34. The objector seeks to object to any proposal to include Sunnyside allotments as a housing site. However, no such proposal has been made and the land is clearly shown on both the Proposals Map and the Open Land Strategy diagram for Berkhamsted as open land which is protected under Policy 110. I see no need therefore for any modification to be made to the Plan in response to this objection.

#### Tring

##### **(p) Protection of open space and recreation areas**

- 13.16.35. This objection seeks the retention of open space and recreation places to keep Tring a pleasant place to grow up in and is related to an objection to Housing Proposal H35, which I have addressed at section 7.34 of my report. While I have recommended that the housing proposal should not be proceeded with I do not consider that site makes a significant contribution as open space. In my view the Plan provides adequate protection for those green spaces within Tring that make an important contribution in amenity or recreation terms. Consequently I find no reason for the Plan to be modified in the light of objection 4235.

##### **(q) Errors and omissions in the Open Land Strategy for Tring**

- 13.16.36. The objectors consider that there is a need to strengthen the protection for open spaces in Tring in the light of the pressure for new development. The policy and diagram should be reinforced in respect of existing open spaces and extend to cover other open spaces such as the Cattle Market site. The description of Tring as being relatively flat and at the foot of the Chilterns is questioned and other alleged errors in the description of Tring in the background text are highlighted.
- 13.16.37. Although the objectors argue that greater protection needs to be given to open spaces in Tring there is no evidence that any of the areas that were identified as open space in the adopted Plan have been developed. While the Plan is proposed to be modified to allow for some housing development at Dundale I consider that the benefits of releasing the remainder of land for public use are sufficient to warrant this (*see paragraphs 7.62.27 to 7.62.55*). I am not satisfied that the overall threat to other designated open spaces in Tring is such as to warrant strengthening the policy for open spaces in Tring. In my view, it is already sufficiently robust.

- 13.16.38. In respect of the inclusion of additional open spaces the only area that has been suggested is the Cattle Market site. While I have recommended that this should not be developed for housing I am not satisfied that it makes a significant contribution in amenity or recreational terms to justify designating it as open land under Policy 110 of the Plan.
- 13.16.39. Turning to the arguments about the differences with the strategy diagrams for the other settlements I note that those for Hemel Hempstead, Berkhamsted and Tring were prepared at the same time and using the same methods. I am not persuaded therefore that the differences indicate that less attention was paid to ensuring the appropriate designation and protection of open spaces in Tring. I note the suggestion that the open ridge or valley side symbol should have been used in respect of the Miswell Lane open space. However, although this area is visible from Tring Park to the south of the town it is not a prominent feature from within the town itself. As such I am not satisfied that this designation would be appropriate. In this regard the situation is no different to that at Berkhamsted where there are also open spaces on the valley sides which are not designated in this manner.
- 13.16.40. As for the alleged errors in the background text I accept that the description of Tring as a relatively flat location at the foot of the Chilterns is misleading. I note that in response the Council proposes under PIC188 to delete the latter part of this reference and substitute the reference to Tring being in a valley. However, I am not satisfied that this goes far enough. While the Town Centre lies on the floor of the valley much of the residential area of the town lies on the valley side. One only has to look south along Christchurch Road to appreciate that the topography of the town is far from flat. I consider, therefore, that this reference should also be deleted.
- 13.16.41. Similarly it is clear that the incorrect reference is given for the parish church in paragraph 13.99(a). This needs to be corrected. I also consider that the reference to open areas around the Museum, which is proposed under PIC190, is inaccurate, as there is no open land around the Museum itself. I assume that the Council is referring to the open area around Tring Mansion and the open land between it and the Museum. In my view it would be more appropriate for it to be described in these terms. I recommend that the Plan should be modified accordingly to address these points. I deal with the detailed issues raised in relation to the Miswell Lane open space and Dundale and Goldfield Schools separately below.

**(r) *Miswell Lane open space***

- 13.16.42. The objectors request that the belt of trees along the eastern edge of the area should be identified and suggest that the area should also be designated as a neighbourhood or land use designation and form part of a green chain. I accept that the trees along the edge of the Miswell Lane open space are of considerable local importance. I have therefore recommended that the Council’s proposed amendment to L5 (PIC148) should be adopted (*see 12.27.7*) and that changes should also be made to TCA5 (*see 19.27.9*). However, I agree with the Council that the belt is too small to merit being identified as woodland on the Tring Open Land Strategy diagram.
- 13.16.43. In relation to the designation of the open space it is already identified as a neighbourhood open space or area with special character. Although it is suggested that it delineates neighbourhoods of different characters I do not accept that the social or

visual distinction between TCA2/TCA3 and TCA4/TCA5 is sufficiently great to argue that the Miswell Lane open space serves to define their separate identities. Indeed it seems to me to act more as a focal point for the surrounding neighbourhoods. As such I am not satisfied that it would be appropriate for the area to also be identified as a neighbourhood or land use delineation.

13.16.44. As for its inclusion as part of a green chain, while I accept that there are footpaths linking it to the countryside to the north west and to the town centre large stretches of these links pass between housing with no adjacent green spaces. As such I consider it is very different in character to the almost continuous narrow belt of open space that lies to the west of Brook Street and Wingrave Road, which is the only area in Tring that is identified as a green chain.

13.16.45. The objectors also suggest that the wording of the background text relating to Miswell Lane open space should be amended. They argue that the space also serves the central area of the town and that it would be useful to refer to its sloping topography, the good views, the trees on the eastern boundary and the 7 pedestrian access points. In my view the reference to it serving the western part of the town is not inaccurate as it seems to me that it would predominantly provide leisure space for people living to the west of Dundale Road. While the other changes that are proposed may well be accurate I consider that they would add an unnecessary level of detail into the Plan. I therefore recommend that no modification should be made in the light of this element of objection 4273 and 4306.

**(s) Dundale and Goldfield schools**

13.16.46. The objectors suggest that the definition of the land at Dundale school as being an open land site meeting a leisure space deficiency is inaccurate. In addition they consider that land at Goldfield school should be shown as open space.

13.16.47. I appreciate that the Dundale school land was originally put forward as meeting a leisure space deficiency because there was a shortage of such space within the adjoining part of Tring. However, there is no indication that it is intended that the land at Dundale school would be made available for public access or that there is any reasonable prospect that it might become so during the life of the Plan. As such it cannot reasonably be contended that it meets a leisure space deficiency. I consider therefore that this designation should be deleted.

13.16.48. Goldfield school is clearly set within open space. However, I note that the western part of this area is already identified as open space on the Proposals Map. The area to the south of the school building is hidden from Christchurch Road by housing. I am not satisfied that it plays a sufficiently strategic role in open space terms to merit being designated for this purpose under Policy 110. In the circumstances I recommend that the Plan be modified by the deletion of the open land site meeting leisure space deficiency from Dundale school but that no change be made in relation to land at Goldfield school.

**(t) Land between Tring Conservation Area and bypass**

13.16.49. The CPRE considers the strategy for Tring should be enlarged to include the land between the Tring Triangle Conservation Area and the bypass. However, this land lies

outside the built-up area and is in my view already adequately protected by its inclusion within the Green Belt and the Chilterns AONB. I see no need for it also to be identified as open land under Policy 110. I therefore recommend no modification should be made to the Plan in response to objection 1384.

**(u) Accuracy of background text for Tring**

13.16.50. Tring Town Council points out that there are a number of errors with the background text for Tring and suggests a number of changes including an allusion to the northward vista from Tring Mansion. The Borough Council accepts all these points and proposes various changes under PICs 188, 190 and 191 to address them. As these changes would improve the accuracy of the Plan and meet the objection I endorse them, subject to the further changes I have recommended in paragraphs 13.16.40 and 13.16.41. I recommend that the Plan should be modified accordingly.

**(v) Description of the land at Dundale**

13.16.51. The objector suggests that the description of the land at Dundale should make reference to the presence of the lake and the fact that it is a Wildlife Site. The Council accepts this and proposes to make the necessary changes under PIC189. I consider that this change would adequately address the objection and I support the change. I recommend that the Plan should be modified in accordance with PIC189.

Kings Langley

**(w) Amendments to the diagram**

13.16.52. The objectors seek the amendment of the Open Land Strategy diagram for Kings Langley to reflect their proposed enlargement of Housing Proposal Site H55. As I have endorsed the Council’s proposal to delete the land at Rectory Farm as a housing site (*see section 7.48*) I do not support this objection. I do endorse, however, FC104, which proposes to make the necessary amendments to the strategy diagram to take into account the deletion of proposals H55 and L11. I recommend that the Plan should be modified accordingly.

Markyate

**(x) Land at Pickford Rd/Cleveland St/George St/Sursham Ct and Farrer Top**

13.16.53. The objectors consider that Housing Proposal Site H56 should be instead identified as open land. The Council argues that it was not necessary for Markyate to be included in the open land strategy as all the leisure space lies within the proposed Green Belt.

13.16.54. While I note the Council’s reasons for not including Markyate in the strategy it will effectively be the only large village that is excluded from the strategy. More importantly if my recommendation regarding the Green Belt boundary is adopted (*see 4.40.26*) the existing areas of leisure space would be excluded from the Green Belt. In the light of this I consider that the Council should include an Open Land Strategy diagram for Markyate.

13.16.55. Turning specifically to Peggy’s Field I have already concluded in section 7.49 of my report that this area constitutes an important leisure resource for those living in the southern part of the village. In the circumstances, I consider that it would be reasonable for this area to be identified as open land on the Open Land Strategy diagram for Markyate. I recommend therefore that the Plan be modified by the inclusion of an Open Land Strategy diagram for Markyate, which should include the land at Pickford Road/Cleveland Street/George Street/Sursham Court and Farrer Top.

**(y) Other matters**

13.16.56. In the light of my recommendations elsewhere in the Plan I would recommend that consequential changes are also made to the edge of countryside and open land designations on the Open Land Strategy diagrams in respect of the following sites:-

H1	-	Land at Bank Mill Lane, Berkhamsted
H52	-	Land at Durrants Lane/Shootersway
H53	-	Land at New Road, Northchurch
H40A	-	Land at Dundale, Tring
H43	-	Land at Watford Road, Kings Langley

Consequential changes to the diagrams may also be necessary in respect of land at West Hemel Hempstead (H34 and H51) and land at Marchmont Farm.

**Recommendation**

13.16.57. The Plan be modified by:-

- (a) amending Policy 7 in accordance with the recommendation at paragraph 5.1.58;**
- (b) revising the Hemel Hempstead Open Land Strategy diagram in accordance with PIC186;**
- (c) altering Sheet 6 of the Proposals Map in accordance with PIC182;**
- (d) amending the background text in respect of Tring as follows:-**
  - (i) revise paragraph 13.98 by deleting the words “*has a relatively flat location at the foot of*” and substituting the words “*lies in a shallow valley within*”**
  - (ii) alter paragraph 13.99 (a) by deleting “*St Peter’s*” and substituting “*St Peter and St Paul*”;**
  - (iii) change paragraph 13.99(b) in accordance with PIC189;**
  - (iv) amend paragraph 13.99(c) in accordance with PIC190;**
  - (v) adjust paragraph 13.99(c) in accordance with PIC190, subject to the deletion of the words “*open areas around*” and the substitution of the words “*open areas around it, including the area between it and*”**
  - (vi) vary paragraph 13.100 in accordance with PIC191;**

- (e) amending the Tring Open Land Strategy diagram by deleting the designation of land at Dundale School as “*Open Land Site meeting Leisure Space Deficiency*”;
- (f) revising the Kings Langley Open Space Strategy diagram in accordance with FC104;
- (g) including a Markyate Open Land Strategy diagram identifying relevant open spaces within or on the edge of the settlement, including Peggy’s Field;
- (h) amending the Berkhamsted Open Land Strategy diagram to redefine the ‘Edge of Countryside’ to include the open space at Durrants Lane/Shootersway and exclude the land at New Road, Northchurch;
- (i) altering the Tring Open Land Strategy diagram to exclude the area of land at Dundale which is proposed in the housing from the area shown as Open Land;
- (j) changing the “Edge of the Countryside” on the Kings Langley Open Space Strategy diagram to reflect the recommended Green Belt boundary at Watford Road/Station Footpath.

13.16.58. PICs 183,184, 185, 188 be not adopted.

13.16.59. The Council considers the need to amend the Hemel Hempstead Open Land Strategy diagram in respect of land at Leverstock Green and West Hemel Hempstead the light of my recommendations at paragraphs 7.43.63, 7.33.98 and 7.44.23.

13.16.60. The Council checks the boundaries of the open space shown on the Proposals Map in the light of the development of Proposal Site TWA3 and amends them as necessary to reflect the actual situation.

## 13.17. POLICY 111: AREAS OF SPECIAL RESTRAINT

### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1552	Linden Homes South-East Ltd	1883	Wilcon Development Group Ltd
1683	Mr P Witt & Ms S Wareham	3762	Government Office for East of England

### Supports

1386	CPRE - The Hertfordshire Society	4990L	English Nature
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### Key Issues

- (a) Does policy 111 cover the relevant sites. (1552, 1683, 1833, 3762)
- (b) Should it be incorporated into Policy 18. (3762)

## Inspector’s Conclusions

### (a) *Which sites should be covered by the policy*

- 13.17.1. These objections relate to a number of specific sites. They include land at West Hemel Hempstead Phases II and III, land to the north of Kings Langley and three areas of land at Northchurch. I, therefore, deal with each of these areas in turn.

#### *West Hemel Hempstead*

- 13.17.2. Wilcon Development Group argues that the land forming Housing Proposal Site H54 (West Hemel Hempstead Phase III) should not be covered by this policy but should be shown allocated instead for development during the Plan period. It also points out that H51 (West Hemel Hempstead Phase II) is wrongly shown on the Proposals Map as being an Area of Special Restraint (ASR).
- 13.17.3. I have already established at section 7.4 of my report that there would be no need for the land at West Hemel Hempstead Phase III to be allocated for development during the current Plan period in order to meet the Structure Plan housing requirement. I have also concluded that in the light of the guidance in PPG3 it would no longer be appropriate for the Plan to identify greenfield land for housing development beyond the end of the Plan period. Consequently I consider that West Hemel Hempstead Phase III should not be shown as a housing reserve site in Part III of the Schedule of Housing Proposal Sites.
- 13.17.4. I have considered whether nevertheless it should be shown as an ASR in the light of the advice in paragraph 2.12 of PPG2 and Policy 5 of the adopted Structure Plan Review. However, in the light of my recommendations in Chapter 7 regarding the allocation of housing land at West Hemel Hempstead (*see section 7.33*) and the findings of EIP Panel in respect of the release of land from the Green Belt to meet housing needs beyond 2011, I believe this would be inappropriate. Consequently, I recommend that the Proposals Map should be modified in accordance with PIC7.
- 13.17.5. Although the objector argues that H51 is wrongly identified as an ASR it is clear from the Borough Council’s response that this designation was intended to cover all land held back for development until a later stage. As H51 is included in Part II of the housing schedule and is not intended for release until after 2006 it clearly falls within this category. However, both PPG2 and Structure Plan Policy 5 makes clear that safeguarded land or Areas of Special Restraint should relate to Green Belt land that is identified to meet likely development needs after the end of the Local Plan period. Nothing in PPG3 or the good practice guide on managing the release of housing sites<sup>4</sup> suggests that it is either necessary or appropriate to extend this definition to cover sites that are intended for release later in the Plan period. In the circumstances, I consider that using this term to cover sites that are scheduled for release after 2006 could cause considerable confusion.
- 13.17.6. I appreciate the Council’s desire to protect land released from the Green Belt that is intended for development later in the Plan period. However, I am satisfied that the

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<sup>4</sup> “Planning to deliver – The managed release of housing sites: towards better practice” DTLR July 2001

provisions of Policy 18 should be sufficient to achieve this, particularly if the oversupply figure is reduced to six years as I have recommended. In the circumstances, I consider that it would be inappropriate to seek to designate sites in Part II of the Schedule of Housing Proposal Sites as ASRs. The asterisk will therefore need to be removed from the Proposals Map in respect of both H50 and H51.

- 13.17.7. Indeed, in the light of my conclusion in Chapter 7 that it is no longer appropriate to release land from the Green Belt in order to meet housing needs beyond the Plan period I find there is no longer a need to identify any land as an ASR. In the circumstances, I consider that the Policy 111 could sensibly be deleted and the asterisks on the Proposals Map removed on all Part III housing sites. I recommend that the Plan should be modified accordingly. In the circumstances there would be no need for the change proposed under FC61.

***Kings Langley***

- 13.17.8. The objector contends that a larger area of land on the northern side of Kings Langley should be designated as an ASR. Objection is also raised to the deletion of the land at Rectory Farm (H55) as an ASR.
- 13.17.9. I have addressed the issue of the deletion of H55 at section 7.48 of my report where I have concluded that this would be an appropriate course of action. I see no justification for its continued identification as an ASR in the light of my conclusions in Chapter 7 and the findings of the EIP Panel. The identification of an even larger area of the valley floor between Hemel Hempstead and Kings Langley would be totally inappropriate in the light of my conclusions in section 4.38 regarding the contribution this area makes to the purposes of the Green Belt. I therefore endorse PIC8 and recommend that no further modification should be made to the Plan to identify land to the north of Kings Langley as an ASR.

***Northchurch***

- 13.17.10. These objections relate to Housing Proposal Site H53 and to two other areas of land at Northchurch which are not proposed for housing in the Plan. Linden Homes argues that the land at Lock Field, New Road, Northchurch (H53) should be allocated for release during the Plan period and should therefore not be shown as an ASR.
- 13.17.11. I have dealt with the issue of the phasing of Housing Proposal H53 in section 7.46 of my report where I have concluded that the land at Lock Field should be deleted from the Plan. It would also therefore need to be deleted as an ASR. I recommend that the Plan should be modified accordingly.
- 13.17.12. Wilcon Development Group has withdrawn its objections to the definition of the Green Belt boundary in relation to the two sites they own at Northchurch. It is clear that in the light of this it no longer wishes to pursue that part of objection 1833 that relates to these sites. I therefore make no comment on this aspect of objection 1833.

***(b) Inclusion in Policy 18***

- 13.17.13. The Government office contends that this policy is misplaced in the Environment section and would be better incorporated into Policy 18. The Council considers that it



is better related to Policy 110 as ASRs are to be treated as open land pending their final development.

13.17.14. In the light of my earlier conclusions I consider that Policy 111 should be deleted. If, however, the Council decide contrary to my recommendation to designate Part II sites as ASRs then I believe it would make more sense for the policy to be moved to a point earlier in the Plan in view of its strategic importance. While the approach to such land may be similar to land controlled by Policy 110 the purpose behind the policy is very different. I am not satisfied therefore that it logically follows on from Policy 110.

13.17.15. Since designation as an ASR is intended to safeguard land released from the Green Belt until it is required for development in my view the most sensible location would be after Policy 3. I therefore recommend that if the Council should determine to retain Policy 111 in the Plan, as amended by FC61, it should be moved to follow Policy 3. In addition, those Green Belt sites that I have indicated ought to be moved from Part I to Part II of the Schedule would need to be identified on the Proposals Map as ASRs.

### **Recommendation**

13.17.16. **The Plan be modified by:-**

- (a) deleting Policy 111;**
- (b) amending the Proposals Map to delete the asterisk on sites H50, H51, H52, H53, H54, H55 and H56.**

13.17.17. **Alternatively if the Council should determine to retain the policy then it should be amended in accordance with FC61 and relocated after Policy 3.**

## **13.18. POLICY 112: THE CANALSIDE ENVIRONMENT**

### **Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1780	Berkhamsted Town Council	2974	English Heritage
1962	Cougar Enterprises Ltd	2975	English Heritage
2881	British Waterways	4743	British Waterways

### **Supports**

1387	CPRE - The Hertfordshire Society	4546	John Dickinson Stationery Ltd
1969	The Boxmoor Trust	5167	Mr Tony McWalter MP
2913	Environment Agency		

### **Support for pre-inquiry changes**

For pre-inquiry change 192

5511PC CPRE - The Hertfordshire Society

## **Key Issues**

- (a) Does the character of the area need to be protected. (1780)**
- (b) Should there be a requirement for all development to contribute positively to the canalside environment. (1962)**

- (c) Does the word ‘any’ need to be added to the start of the policy. (2881)
- (d) Should the canal’s historic character be emphasised in the policy and text. (2974, 2975)
- (e) Should the policy contain a reference to the proposals under the Canal and Riverside Partnership (CARP).(1780)
- (f) Is Supplementary Planning Guidance on design criteria in locations next to the canal required. (1780)
- (g) Is it necessary to refer to British Waterways’ approval being needed for bridges and cycleways. (4743)

## **Inspector’s Conclusions**

### **(a) *Character of the area***

- 13.18.1. Berkhamsted Town Council is concerned that the policy does not do enough to protect views from the canal. It also argues that it fails to give adequate recognition to the canal’s engineering heritage. The Council argues that when the policy is considered in conjunction with other policies of the Plan, including policies 9, 115, 116 and 117, it would provide effective protection to the canalside environment.
- 13.18.2. While Policy 9 does address many of the issues that would need to be taken into account in considering development alongside the canal it makes no specific references to views. I agree with the objector that views both of and from the canal contribute significantly to its value as a tourism and recreation asset and enhance its overall setting. In my view this goes further than merely requiring the development to make a positive contribution to views. It is a question of ensuring that important views are not lost in the process of development. I believe therefore that the effectiveness of the policy would be improved if it referred to the need for any canalside development to retain important views both to and from the canal.
- 13.18.3. I appreciate that the Grand Union Canal and its associated structures are of considerable historic importance. However, I consider the requirements to retain canalside buildings and structures and for new development to be appropriate to the environmental and historic character<sup>5</sup> would be adequate to protect the canal’s historic heritage. There is nothing in the policy that suggests that canalside structures should be retained solely for their architectural interest. In the circumstances, I see no need to add a specific reference to their engineering interest. Accordingly, I recommend that in response to this objection the Plan should be modified solely by the inclusion in Policy 112 of a requirement to retain important views both to and from the canal.

### **(b) *A positive contribution***

- 13.18.4. The objector argues that the policy’s requirement that development make a positive contribution to the canalside environment is unreasonable and suggests it would be more appropriate for the policy to refer to development not causing harm. The Council considers that the requirement is not unduly onerous and the objector’s suggested change would give the policy a negative emphasis.

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<sup>5</sup> The reference to historic character is proposed to be added under PIC192.

- 13.18.5. The Grand Union Canal forms an important feature that makes a considerable contribution to the Borough both as a recreational resource and as a tourist asset. In these circumstances, I consider it is reasonable for the Council to require new development adjoining the canal to make a positive contribution to its environment. In my view such an approach accords with the objectives of PPG1 which seeks to secure a high quality of design for all new development. I consider the alternative wording suggested by the objector would be less effective in meeting this objective.
- 13.18.6. I appreciate that there would be some element of subjectivity in determining whether or not development would make a positive contribution. However, in my view this would apply equally in the case of the objector’s alternative wording. I do not consider that the original requirement would be any more difficult to interpret. Nor do I accept that a blanket requirement for a positive contribution would be illogical since the quality of all new development alongside the canal will be important to its setting. Consequently, I recommend that no modification should be made to the Plan in response to objection 1962.

**(c)      *Adding “any”***

- 13.18.7. British Waterways suggests the policy would be improved by adding the word “Any” at the beginning. However, in my view it is already sufficiently clear from the wording of the policy that all new development would be required to make a positive contribution. I do not consider therefore that the addition of the word “any” would improve the policy. I therefore recommend that no modification should be made to the Plan in response to objection 2881.

**(d)      *Historic character of the canal***

- 13.18.8. English Heritage suggests that the historic character and importance of the canal should be emphasised in the policy and the text. The Council accepts that the historic interest of the canal should be highlighted and proposes to address this by amending the wording of the first paragraph of the policy under PIC192. It does not, however, consider that any amendment is required to the text.
- 13.18.9. There is no doubt that the canal is of considerable historic importance. I consider therefore that the recognition of its historic character would improve the policy. I therefore endorse PIC192. I see no real need for a similar change to be made to the supporting text as it would add little of real value to the Plan. I therefore recommend that in response to objection 2974 the Plan should be modified in accordance with PIC192 but that no modification should be made in the light of objection 2975.

**(e)      *Role of CARP***

- 13.18.10. Berkhamsted Town Council suggests that the policy should include a reference to the CARP proposals. However, the CARP study is already referred to in paragraph 13.111 of the supporting text. Since the proposals only relate to the section of the canal that passes through Berkhamsted I consider that it is more appropriate for the reference to be included in the supporting text rather than in the policy itself. In the circumstances, I recommend that no modification should be made to the Plan in response to this element of objection 1780.

**(f) Design guidance**

13.18.11. The objector seeks the production of design advice for canalside development in the form of supplementary planning guidance. While the background text to the policy refers to the availability of design guidance from CARP this only relates to the section of the canal which passes through Berkhamsted. In my view, therefore it would be useful for detailed design advice covering the whole of the canal through the Borough to be produced. Such advice would help to establish the style of development that would be considered to make a positive contribution to the canalside environment. However, the production of such advice would not require any modification to be made to the Plan. I therefore leave it to the Council to decide whether to produce such guidance. Clearly if they do decide to do so it would be appropriate for them to take account of any guidance produced by other relevant organisations, including the Inland Waterways Amenity Advisory Council.

**(g) Consent from British Waterways**

13.18.12. British Waterways suggests that the Plan should refer to the need for its approval to be obtained for the creation of new bridges over the canal or cycleways along it. However, Policy 112 merely refers to encouraging the retention of bridges and the improvement of pedestrian access. It makes no mention of creation of new bridges or cycleways. Even if it did, I am not satisfied that it would be appropriate for the policy to refer to the requirement for approval from another organisation. In my view this would add an unnecessary level of detail. I have no doubt that if planning applications are subsequently made for such proposals the Council would consult British Waterways. In the circumstances, I recommend that no modification should be made to the Plan in response to objection 4743.

**Recommendation**

13.18.13. The Plan be modified by amending of Policy 112 as follows:-

(a) insert an additional sentence at the end of the first paragraph to read:-

“Important views both to and from the canal should be retained.”

(b) amend in accordance with PIC192.

*See also recommendation in paragraph 13.27.53(i).*

### **13.19. POLICY 113: LOCATION OF RECREATIONAL MOORING BASINS, LAY-BYS AND RESIDENTIAL MOORINGS ON THE GRAND UNION CANAL**

**Objections**

<i>Rep No</i>	<i>Name</i>
753	Herts & Middlesex Wildlife Trust
1781	Berkhamsted Town Council

<i>Rep No</i>	<i>Name</i>
2882	British Waterways
5809	British Waterways

**Supports**1202  
1388Mr C Andrews  
CPRE - The Hertfordshire Society

4991L

English Nature

**Key Issues**

- (a) Are linear residential moorings appropriate and should they be allowed on either side of the waterway.(1781)
- (b) Should residential moorings only be allowed outside the Berkhamsted Conservation Area. (1781)
- (c) Do the criteria of the Canal and Riverside Partnership in Berkhamsted need to be included.(1781)
- (d) Does criteria (d) need to be amended. (753)
- (e) Should references to the residential moorings moratorium be deleted. (2882, 5809)

**Inspector’s Conclusions*****General***

13.19.1. I have already addressed issues relating to this policy in section 7.14 of my report where I have recommended that a separate policy on residential moorings should be included in the Housing section of the Plan (*see paragraph 7.14.14*). In the light of this recommendation I consider it would be appropriate for Policy 113 to be rewritten to cover only recreational moorings and for the policy to be included instead within the Leisure and Tourism section of the Plan, preferably after Policy 84.

***(a) Linear residential moorings***

13.19.2. The objector argues that linear residential moorings are inappropriate and that they should be restricted to purpose built marinas. It is also suggested that residential moorings on the towpath side of the canal can both be unsightly and impede use of the towpath due to the clutter of related domestic paraphernalia.

13.19.3. I accept that residential moorings can lead on occasion to unsightly related activities taking place on the adjoining canal bank. They can also cause problems with rubbish disposal and servicing. However, I am not persuaded that this is sufficient reason to seek to restrict all residential moorings to purpose-built marinas or to prevent any moorings taking place on the towpath side of the canal since there may well be locations where the attendant problems could be appropriately addressed. In my view the criteria of the revised policy that I have recommended in paragraph 7.14.14 should enable sufficient control to be exercised over any residential moorings that are granted planning permission to avoid the problems envisaged by the objector.

13.19.4. Most of the problems in any case appear to relate to unlicensed moorings, which do not have the benefit of planning permission. In my view these can only be effectively dealt with through appropriate enforcement action either by the local planning authority or by British Waterways. It is not an issue that can appropriately be addressed by means of a local plan policy. While I can understand the objector’s concern about such moorings, I am not satisfied that the difficulty the relevant authorities have in dealing with them justifies taking a more restrictive approach to those boat owners who follow the correct procedures and apply for planning

permission. Consequently, I recommend that no further modification should be made to the policy in the light of this element of objection 1781.

**(b) Residential moorings in the Berkhamsted Conservation Area**

- 13.19.5. Although the objector expresses concern about residential moorings within the Berkhamsted Conservation Area I agree with the Council that it is likely to be most appropriate for such moorings to be sited in existing built-up areas. In my view the provision of a limited number of additional recreational moorings would be unlikely to have a serious impact on the Conservation Area providing they complied with the specified criteria. In any case such proposals would also have to meet the tests in Policy 116. I consider that read together these policies would be sufficient to ensure that further residential moorings would only be permitted within the Berkhamsted Conservation Area where they preserved its character and appearance. I recommend therefore that no modification should be made to the Plan in the light of this aspect of objection 1781.

**(c) The CARP criteria**

- 13.19.6. The Plan already mentions the CARP criteria in paragraph 13.111. As these criteria relate only to the Berkhamsted stretch of the canal I do not consider it would be appropriate for them to be referred to directly in Policy 113 or its supporting text. I am satisfied that the policy contains the relevant criteria to establish the necessary control of residential and recreational moorings. I therefore recommend that no modification should be made to the Plan in this regard.

**(d) Criterion (d)**

- 13.19.7. The objector seeks the deletion of the word “seriously” in order to make it consistent with Policy 84. I note the Council’s comments regarding why a different approach is warranted in this case. However, I am not persuaded that the scale of development is sufficient justification for treating recreational or residential moorings differently to other recreational facilities in terms of its impact on the nature conservation interest of the canal or the adjoining land.
- 13.19.8. I appreciate that designated sites of nature conservation interest would be protected by the successor policies to Policy 103. Nevertheless, PPG9 makes clear that our natural wildlife heritage is not confined to such sites. In particular linear features like canals can have important role to play as wildlife corridors. As such I consider that it is important that development along the canal aims to avoid having any adverse effect on its nature conservation value. I would therefore recommend that the word “seriously” should be deleted from the policy in response to objection 753.

**(e) Residential moorings moratorium**

- 13.19.9. The objector argues that references to the residential moorings moratorium should be removed from the policy and the text, as it is no longer in force. The Council accepts this. It therefore proposes a number of further changes to update the policy and background text. These include removing the references to the moratorium (FCs 120 and 121), amending the position regarding the availability of mooring basins and marinas (FCs 122 and 123), and deleting the last two paragraphs of the background

and replacing them with a general statement relating to the demand for residential moorings. Since these changes would bring the Plan more up-to-date I support them. However, the changes will need to take account of the other recommendations I have made regarding splitting this policy into two parts. I recommend that the Plan be modified accordingly.

### **Recommendation**

**13.19.10. The Plan be modified by:-**

- (a) rewriting Policy 113 to cover only recreational moorings;**
- (b) relocating the amended policy to follow Policy 84 in section 9 of Part 3 of the Plan;**
- (c) deleting the word “seriously” in criterion (d)**
- (d) amending the background text as necessary taking into account FCs 121, 122, 123, and 124.**

## **13.20. POLICY 114: IMPORTANT ARCHAEOLOGICAL REMAINS**

### **Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1963	Cougar Enterprises Ltd	2980	English Heritage
2976	English Heritage	3024	Leverstock Green Village Association
2977	English Heritage	3186	Mr & Mrs M R & B A Chapman
2978	English Heritage	4072	HCC Environment Department
2979	English Heritage	5117	Tring Environmental Forum

### **Counter Objections**

To pre-inquiry change 195	
5361PC	Cougar Enterprises Ltd
To pre-inquiry change 196	
5362PC	Cougar Enterprises Ltd

### **Supports**

1389	CPRE - The Hertfordshire Society	3185	Mr & Mrs M R & B A Chapman
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### **Supports for pre-inquiry changes**

For pre-inquiry change 193			
5359PC	Cougar Enterprises Ltd	5512PC	CPRE - The Hertfordshire Society
For pre-inquiry change 194			
5360PC	Cougar Enterprises Ltd	5513PC	CPRE - The Hertfordshire Society
For pre-inquiry change 195			
5515PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 196			
5516PC	CPRE - The Hertfordshire Society		
For pre-inquiry change 197			
5514PC	CPRE - The Hertfordshire Society		

## **Key Issues**

- (a) Does the policy need to make clear that development should not adversely affect Scheduled Ancient Monuments or other important archaeological sites or their settings. (2976, 4072)**

- (b) Should the policy indicate that the list of Scheduled Ancient Monuments and Areas of Archaeological Significance could be extended. (2979)
- (c) Is it necessary for the policy to ensure satisfactory provision for excavation and recording. Would the policy be better if it stated that further excavation and recording of important archaeological remains was preferable to in situ preservation. (2978, 5117)
- (d) Should the policy state that evaluations to test whether important archaeological remains exist are not full archaeological excavations. (1963)
- (e) Should developers be required to provide the results of an archaeological evaluation as part of their planning applications. (2977)
- (f) Do planning permissions need to be subject to relevant planning conditions and obligations. (2978, 4072)
- (g) Should developers be required to fund the conservation of finds in or by museums or other appropriate bodies or should it give greater encouragement to developers to contact the appropriate organisations for advice. (5117)
- (h) Would the policy be further improved if it encouraged developers to seek advice from relevant organisations. (5361PC)
- (i) Should the background text cover the process of evaluation set out in paragraphs 19-23 of PPG16: Archaeology and Planning, including consultation with the County Archaeological Group at a very early stage. (2980, 4072)
- (j) Does the new wording to the background text proposed by PIC196 need to be further amended. Should it state that a developer will not be required to repeat an archaeological evaluation for a new planning application (5362PC)
- (k) Should Area of Archaeological Significance 61 at Leverstock Green be extended. (3024, 3186)

## Inspector’s Conclusions

### (a) *Protection of Scheduled Ancient Monuments (SAMs)*

- 13.20.1. Both English Heritage and the County Archaeologist argue that the wording of the first paragraph would fail to give adequate protection to SAMs or other important archaeological sites or their settings. They recommend that the policy should be amended to make clear that planning permission would not be given for development that would adversely affect such sites or their settings. The Borough Council accepts that the word “disturbance” could be taken not to include visual impact. It therefore proposes under PIC193 to revise the first paragraph of the policy to remedy this defect.
- 13.20.2. Since the revised wording would address the objections and reflect more closely the advice in paragraph 18 of PPG16 I support the proposed change. I therefore recommend that the Plan be modified in accordance with PIC193 in response to these objections.

### (b) *Adding to the list of SAMs*

- 13.20.3. The objector argues that the policy should reflect the fact that the list of SAMs could be added to during the life of the Plan. The Council acknowledges this point and proposes to add an additional sentence to the policy under PIC195 to cover this issue. In my view this change would ensure that the policy remained up-to-date throughout



the life of the Plan. I therefore endorse PIC195 and recommend that the Plan should be modified accordingly.

**(c) *Excavation and recording or preserving in situ***

- 13.20.4. Tring Environmental Forum argues that in situ preservation of important archaeological remains should not be the preferred option and recommends that excavation and recording should be the preferred approach. The Borough Council points out that such an approach would not accord with national advice.
- 13.20.5. While I understand the objector’s concerns about guaranteeing the safety of remains paragraph 13 of PPG16 makes clear that preservation in situ is nearly always to be preferred. In my view it is important that local plan policies are consistent with national advice unless there are strong local circumstances which merit a different approach. I can find no such circumstances in this case. I therefore recommend that no modification should be made to the Plan in response to this part of objection 5117.

**(d) *Meaning of evaluation***

- 13.20.6. Cougar Enterprises suggest that the Plan should make clear that archaeological evaluation would not involve full archaeological investigation. The Council considers that it is unnecessary to specify in the policy the precise form of evaluation although it accepts that it should not normally involve full archaeological excavation. However, it accepts that it would be appropriate for the process of evaluation to be amplified in the background text in line with the advice in paragraphs 19 to 23 of PPG16. It therefore proposes to make the necessary amendments to the text under PIC196.
- 13.20.7. I consider that the proposed change would give clearer guidance on the nature of the evaluation that is likely to be required in accordance with the advice in PPG16. I see no need for such advice to be incorporated into the policy since I believe it would unnecessarily extend an already lengthy policy. In my view PIC196 would be adequate to address the objection. I recommend therefore that the Plan should be modified in accordance with PIC196.

**(e) *Responsibilities of developers***

- 13.20.8. English Heritage suggests that paragraph 3 of the policy should be amended to make clear that the results of archaeological evaluations would be required to be provided with planning applications. The Council points out that it is its responsibility to consider whether important archaeological remains would be affected. The requirement in the Deposit Draft that developers will be expected to provide the results of an archaeological evaluation before the planning application reflects the advice in PPG16 and acknowledges that it will not always be possible for such evaluations to be undertaken before a planning application is submitted.
- 13.20.9. Although the Council argues that the wording of the policy reflects national advice in fact paragraph 22 of PPG16 states that “*Local planning authorities can expect developers to provide the results of such assessments and evaluations as part of their application*”. I am not satisfied that the wording of Policy 114 accords with this advice. While I accept there may be occasions where it will not be feasible for such evaluations to be undertaken prior to the submission of a planning application I do not

consider this is sufficient reason to justify requiring all evaluations to be provided before the planning application is determined. In my view this not only gives insufficient emphasis to the importance of such evaluations but it also likely to greater delays in the determination of planning applications which is clearly to be discouraged. Consequently, I recommend that the wording of the policy should be modified to make clear that such evaluations should normally be submitted as part of a planning application.

**(f) *Planning conditions and obligations***

13.20.10. English Heritage and the County Archaeologist consider a more robust wording of the fourth paragraph is necessary to ensure satisfactory provision for excavation and recording, including a requirement for relevant planning conditions and agreements. The Borough Council accepts that the wording of the policy could be improved in this regard and proposes under PIC194 to amend the fourth paragraph to reflect more closely the advice in PPG16.

13.20.11. In my view, the revised wording would bring the policy more closely into line with the advice in paragraph 25 of PPG16, which states that it would be entirely reasonable for the local planning authority to satisfy itself before granting planning permission that the developer has made appropriate and satisfactory provision for the excavation and recording of remains. I consider therefore that it would satisfy the objections and improve the Plan. Consequently, I support the proposed change and recommend that the Plan should be modified in accordance with PIC194.

**(g) *Funding the conservation of finds***

13.20.12. Tring Environmental Forum suggests that the policy should require developers to provide funding for the conservation of finds. The Council points out that this goes beyond the advice in PPG16. However, in exceptional circumstances planning conditions or obligations could be imposed to require this where it would be both reasonable and justifiable.

13.20.13. PPG16 makes clear that developers should not be expected to fund archaeological works in return for the grant of planning permission. Although requiring developers to fund the conservation of finds would not necessarily directly conflict with this advice I consider that including a blanket requirement along these lines would be contrary to its spirit. To my mind it would be much more appropriate to determine whether a requirement could reasonably be imposed when assessing individual applications. I am satisfied that the approach that the Council proposes to adopt is the right one. I see no need therefore for any modification to be made to the Plan.

**(h) *Sources of advice***

13.20.14. The objector suggests that the policy would be further improved if it sought to encourage developers to contact the local authority, the County Archaeologist or English Heritage for advice. The Council does not believe this to be necessary and points out that the revised background wording proposed by PIC196 draws attention to the need to consult the County Archaeological Group at an early stage.

13.20.15. I have no doubt that it would be appropriate for developers to be encouraged to seek relevant advice. However, in my view statements that merely seek to encourage actions are not appropriate within a land use policy that is primarily aimed at controlling development. Such references in my view are more appropriately included within the background text. PIC196 already encourages developers to approach the County Archaeological Group, which is likely to be the best local source of knowledge about archaeological remains. In my view it is better to point developers to one source of advice rather than a number. I therefore see no need for a reference to English Heritage to also be included since the County Archaeologist could always refer developers to it if this was considered appropriate. Accordingly I am satisfied that PIC196 adequately addresses this issue and I see no need for any further modification to be made to the Plan in response to objection 5361PC.

**(i) *PPG16 and the process of evaluation***

13.20.16. English Heritage suggests that it would be appropriate for the background text to be amended to give further guidance on the process of evaluation. The Council accepts this and proposes to amend the existing text and insert additional text under PIC196 to address this issue.

13.20.17. I have already indicated in paragraph 13.20.7 that I consider that this change would adequately address the issue of evaluation. I am therefore satisfied that it would answer objection 2980.

**(j) *Further amendments to background text and repeat evaluations***

13.20.18. The objector considers that further amendments to the revised text proposed by PIC196 would improve the Plan. It is suggested that additional wording should be added to paragraph 13.124 to indicate that other techniques are available for sealing archaeological remains under buildings and to point out that where preservation in situ is not feasible preservation by record would be the second best option. The second paragraph should be altered to fully reflect national advice and to refer to a desk-based evaluation and to make clear that a field evaluation is distinct from a full archaeological evaluation. Finally it is suggested that it would be helpful for the background text to make clear that developers will not be required to repeat evaluations when any new or revised planning application is being considered.

13.20.19. The Council considers that the suggested amendments to the revised text proposed by PIC196 are unnecessary. While it agrees that a repeat evaluation in the same circumstances is unlikely to be necessary in other situations it may be. It believes therefore that the additional wording put forward by the objector would be inappropriate.

13.20.20. I consider that the wording of paragraph 13.124 already adequately covers the different methods of preserving remains. Since it indicates that preserving in situ is the preferred option I agree with the Council that it is a logical assumption that preservation by record is the next best option. I see no need for this to be spelled out in the background text. I am not persuaded therefore that the objector’s proposed amendments to paragraph 13.124 would improve it.

13.20.21. While the objector is right to point out that paragraph 20 of PPG16 states that archaeological assessment will normally involve desk-based evaluation, it also states that it need not involve fieldwork. It does not therefore preclude the possibility of fieldwork forming part of the initial assessment. In my view it would be a matter for the professionally qualified archaeological organisation or consultant who is undertaking the assessment to determine the best method of assessment in any given circumstances. I am not persuaded therefore that the additional wording proposed by the objector to paragraph 13.125 is necessary.

13.20.22. Repeating an evaluation will clearly be unnecessary where circumstances have not changed. However, there may be occasions where new evidence comes to light or where there have been changes on the site in the intervening period. Consequently, I do not consider it would be appropriate for the background text to suggest that a repeat archaeological evaluation would not be required when any new or revised planning application is being considered. In my view this can only reasonably be assessed in the light of the prevailing circumstances at the time. Consequently, I do not support the additional wording proposed by the objector. I recommend that no modification should be made to the Plan in response to objection 5362PC.

**(k) Area of Archaeological Significance 61 (AAS61)**

13.20.23. The objectors argue that a much larger area covering Housing Proposal sites H16 and H50 and the area between Green Lane, Westwick Row, the Borough boundary and the A4147 should be included in the Area of Archaeological Significance. The Borough Council accepts, based on the advice from the County Archaeologist, that the area should be extended. However, it considers that this should be limited to the area of open land between Pancake Lane, Green Lane and Westwick Row. It therefore proposes to amend the Proposals Map accordingly under FC191.

13.20.24. Although this area would only cover part of the area sought by the objectors I note that the County Archaeologist considers it to be the maximum area that is justified from known archaeological evidence. In the absence of any clear indication of significant archaeological potential in the land adjoining Buncefield Lane (H16) I see no justification for extending AAS61 north of Green Lane. While there may be some interest remaining in built-up area between Leverstock Green Road and Westwick Row development is likely to have significantly reduced its archaeological potential. In the circumstances, I accept that it would not be reasonable for this area to be included. Accordingly, I support the proposed change to the boundary of AAS61 and recommend that the Plan be modified accordingly in accordance with FC191.

**(l) Other matters**

13.20.25. In the light of my conclusions in section 14.2 of my report I also recommend that the background text to Policy 114 should be amended in accordance with PIC197.

**Recommendation**

13.20.26. The Plan be modified by :-

**(a) revising Policy 114 in accordance with PICs193, 194 and 195;**

- (b) amending the wording of the third paragraph of Policy 114 by deleting the words “*before the planning application is determined*” and substituting the words “*as part of their planning application*”;
- (c) altering and extending the background text to Policy 114 in accordance with PICs196 and 197;
- (d) amending the Proposals Map in accordance with FC191.

### 13.21. POLICY 115: DEVELOPMENT AFFECTING LISTED BUILDINGS

#### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
2981	English Heritage	4074	HCC Environment Department
2982	English Heritage	4992L	English Nature
2983	English Heritage	5118	Tring Environmental Forum
4073	HCC Environment Department		

#### Support

1390 CPRE - The Hertfordshire Society

#### Supports for pre-inquiry changes

For pre-inquiry change 198

5517PC CPRE - The Hertfordshire Society

For pre-inquiry change 199

5519PC

For pre-inquiry change 200

5518PC CPRE - The Hertfordshire Society

5618PC Berkhamsted Town Council

CPRE - The Hertfordshire Society

#### **Key Issues**

Should the policy state that there will be a presumption against the demolition of listed buildings. (2981)

- (b) Is it necessary to make clear that any new use that is proposed should be compatible with the building. (2982)

Should the policy be expanded to refer to criteria in paragraphs 3.5, 3.16 and 3.19 of PPG15. (2981, 2983)

Does the policy need to refer to recording a listed building and any finds of significance before and during development. (4073, 5118)

Would it be appropriate to require the assessment of the historic significance of a listed building before determining a planning application. (4074)

- (f) Should the policy or its supporting text refer to the possible presence of specially protected species. (4992L)

Should the reclamation of materials from listed buildings be required and funds provided to ensure conservation of any finds and publication of the findings. (5118)

## **Inspector’s Conclusions**

### **(a) *Presumption against demolition***

13.21.1. English Heritage argues that the policy should state that there would be a presumption against the demolition of listed buildings in line with the advice in PPG15. The Council acknowledges the need for the policy to reflect the advice in PPG15 and proposes under PIC198 to amend the first paragraph of the policy to refer to the general presumption in favour of the preservation of listed buildings. Since this change would address the objection and accurately reflects the advice in paragraph 3.3 of PPG15 I endorse it. I recommend that the Plan should be modified accordingly.

### **(b) *Compatible new uses***

13.21.2. The objector suggests that the third paragraph after the criteria should be amended to refer to the changes of use of listed buildings and the need for such changes to be compatible with the special interest of the building. The Council contends that PIC199, which refers to the submission of an impact assessment, would address this objection.

13.21.3. I am not satisfied that the proposed change does address the essence of the objection. In the first place the change is to a different paragraph to that referred to by the objector and in the second place it relates to an entirely different issue. Paragraph 3.10 of PPG15 indicates that policies for development and listed building controls should recognise the need for flexibility where new uses for listed buildings have to be considered. However, paragraph 3.9 also suggests that the principle aim should be to identify the optimum viable use that is compatible with the fabric, interior and setting of the historic building.

13.21.4. Apart from criterion (e) relating to a non-conforming use and a reference to the conversion of farm buildings to residential use the policy is silent on the implications of changes of use in respect of listed buildings. I consider that this is a serious omission that weakens the policy and fails to take account of the advice in paragraph 2.8 of PPG15. I would recommend therefore that the policy should be modified to address all applications for changes of use which relate to listed buildings and to indicate that such uses should be compatible with the special interest of the building.

### **(c) *Criteria in PPG15***

13.21.5. The objector contends that the policy should be expanded to refer to the criteria in paragraphs 3.5, 3.16 and 3.19 of PPG15. The Council accepts this objection and proposes to amend the policy under PIC198 to include the relevant criteria from PPG15 for assessing both proposals for demolition and other applications for listed building consent.

13.21.6. While the inclusion of these criteria would lengthen the policy I accept that they would give clearer guidance to applicants for listed building consent. I therefore endorse the proposed change and recommend that the policy should be modified in accordance with PIC198.

**(d)      *Recording a listed building***

- 13.21.7. The County Archaeologist and Tring Environmental Forum suggest that in line with the advice in paragraphs 3.23 and 3.24 of PPG15 the policy should be amended to indicate that conditions may be attached to a listed building consent to indicate that recording may be required. The Council accepts the suggested wording and proposes to amend the policy accordingly under PIC200.
- 13.21.8. While I accept that it would be appropriate for the policy to recognise the possibility that recording may be required I consider that the wording of PIC200 is unnecessarily detailed and adds unreasonably to the length of the policy. I recommend therefore that it should not be adopted. In my view it would be sufficient to simply state that in certain circumstances a condition may be attached to a listed building consent requiring a suitable programme of recording of features that would be destroyed or might be revealed during the course of the work. I recommend that the policy should be modified accordingly.

**(e)      *Assessment of historic significance***

- 13.21.9. The objector maintains that the policy fails to make adequate provision for assessment of the historic significance of a listed building prior to the determination of a planning application. The Council acknowledges the requirements of paragraph 2.11 of PPG15 in this regard and proposes to amend the policy, as suggested by the objector, under PIC199, to indicate that an impact assessment may be required.
- 13.21.10. While the wording does not precisely follow the advice in paragraph 2.11 of PPG15 I consider that it encapsulates the general gist of the advice and would be a helpful indication to developers that they may be required to submit further information. I therefore support PIC199 and recommend that the policy be modified accordingly.

**(f)      *Presence of specially protected species***

- 13.21.11. English nature suggests that a reference should be made either in the policy or the supporting text to the possible presence of specially protected species. The Council considers that FC71 in relation to Policy 106 and PIC285 in respect of the environmental guidelines on the conversion of agricultural buildings would be adequate to address this concern.
- 13.21.12. While the presence of protected species like bats may well be more prevalent in rural buildings they can also be present in urban buildings, particularly older buildings which are not in full active use. In the circumstances, I consider that it is not sufficient to merely address the issue in respect of rural buildings. However, rather than amend the policy or text solely in relation to listed buildings I consider that it would be more sensible for the Plan to include a separate policy covering protected species (*see my recommendation in paragraph 13.9.14*). This would allow the wider issues to be addressed as recommended in PPG9. I see no need therefore for any modification to be made to Policy 115 or its background text in response to objection 4992L.

**(g) Reclamation of materials and provision of funds**

13.21.13. Tring Environmental Forum considers that the policy should also require the reclamation of materials from listed buildings and the provision of funds so that any finds can be conserved and the findings of any studies published. The Council maintains that such requirements would go beyond the advice in PPG15 and are therefore inappropriate.

13.21.14. In my view seeking to require developers to finance the conservation or recording of finds as a matter of course would not accord with national advice. While the reclamation of materials may be important this will depend on the nature of the works applied for and the quality of the materials. I consider it would be more appropriate for the Council to assess whether a requirement to reclaim materials would be reasonable in relation to a specific proposal. Consequently, I see no need for any further modification to be made to the Plan in response to objection 5118.

**Recommendation**

13.21.15. The Plan be modified by revising Policy 115 as follows:-

- (a) amend in accordance with PICs 198 and 199.
- (b) add additional wording to cover changes of use of listed buildings and the need for such uses to be compatible with the fabric, interior and setting of the listed building;
- (c) insert an additional sentence to read:-

“In certain circumstances a condition may be attached to a listed building consent requiring a suitable programme for the recording of features that would either be destroyed or could be revealed during the course of the work”

13.21.16. PIC200 be not adopted.

**13.22. POLICY 116: DEVELOPMENT IN CONSERVATION AREAS**

**Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1713*	McCarthy and Stone (Developments) Ltd	3215	Flaunden Parish Council
1782	Berkhamsted Town Council	4253	Glaxo Wellcome plc

**Support**

1391	CPRE - The Hertfordshire Society
1392	

**Supports for pre-inquiry changes**

For pre-inquiry change 201			
5520PC	CPRE - The Hertfordshire Society	5619PC	Berkhamsted Town Council



## Key Issues

- (a) Whether the wording should replace ‘and’ with ‘or’ so that it complies with PPG15. (1713)
- (b) Should greater effort be made to publicise and promote schemes for improving Conservation Areas. (1782)
- (c) Is an Article 4 direction needed in the Berkhamsted Conservation Area. (1782)
- (d) Should Flaunden Conservation Area be extended. (3215)
- (e) Does the text need to give greater guidance in respect of sites where demolition is necessitated due the characteristics of the building or the site. (4253)

## Inspector’s Conclusions

### (a) *Conformity with PPG15*

- 13.22.1. The current wording of the policy does not accurately reflect the wording of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 or the advice in PPG15. Proposed change PIC201, which replaces the word “and” with “or” in the third paragraph, would go some way to rectifying this and would meet the objection. I therefore endorse it. However, I consider that the sentence would be even better if the words “or appearance” were also added as this would bring it more closely into line with section 72(1). Consequently, I recommend that the policy should be modified in accordance with PIC201 and by the addition of the words “or appearance” to the first sentence of the third paragraph.

### (b) *Publicity and promotion of enhancement schemes*

- 13.22.2. Berkhamsted Town Council expresses concern about the inappropriate replacement of windows, doors, roofs, extensions and the type of pointing used in the Berkhamsted Conservation Area. It therefore requests greater publicity and promotion of schemes for the restoration and enhancement of Conservation Areas. The Borough Council points out that it already provides a grant aid scheme for the repair of listed buildings and other significant buildings in Conservation Areas and has also supported the Berkhamsted Urban Design Scheme. In its view Part 4 of the Plan already adequately addresses the need for the enhancement of Berkhamsted Conservation Area.
- 13.22.3. I have no doubt that the Borough Council already does a significant amount to address the need for enhancement of Conservation Areas and I note that a Character Appraisal and Policy Statement for the Berkhamsted Conservation Area is included in Part 4 of the Plan. However, what the objector is seeking is greater publicity for the work that is being undertaken and the wider promotion of design advice. While I note the Council’s suggestion that many of the matters concerning the objector are not currently subject to control this does not prevent it from publishing general advice on design relating to such changes. I would encourage the Council to seriously consider the publication of appropriate design guidance for Conservation Areas. However, in my view there is no need for any modification to be made to the Plan in this respect, as the matter is already adequately covered under item (b) of Policy 117.

**(c)      *Need for Article 4 direction in Berkhamsted CA***

- 13.22.4. The objector seeks an Article 4 direction on the Berkhamsted Conservation Area to remove the permitted development rights for minor alterations in the light of the changes that are occurring to the area. Based on my extensive visits to the area I can understand the objector’s concerns. It is readily apparent that the cumulative effect of minor changes, including the replacement of windows, doors and roof materials, has significantly eroded the architectural and historic interest of many parts of the Conservation Area. I consider therefore that an Article 4 direction would therefore be useful in preserving the character and appearance of those parts of the Conservation Area that still retain something of their original flavour. However, Policy 117 already provides for such directions to be made and I note that the possibility of one being made for the Berkhamsted Conservation Area is under discussion. I therefore see no need for any modification to be made to the Plan in response to objection 1782.

**(d)      *Extension of the Flaunden Conservation Area***

- 13.22.5. Paragraph 2.9 of PPG15 makes clear that revision of the boundaries of a Conservation Area should be pursued separately from the local plan process itself. I therefore make no further comment on this objection.

**(e)      *Guidance on demolition***

- 13.22.6. Glaxo Wellcome plc argues that the text should give clearer guidance on demolition. The Council contends that the policy is consistent in this respect with the advice in PPG15. It therefore considers the objector’s revised wording, which seeks special consideration for demolition proposals where it is demonstrated that the condition of the site or building requires demolition or remediation to ensure a viable future use, would be inappropriate.
- 13.22.7. The wording of the policy already indicates that consent for demolition will not be granted unless it can be proved that the building is incapable of repair to ensure viable use. In my view this accords with the general thrust of the advice in paragraphs 4.27 and 3.17 of PPG15. I consider that it already allows sufficient scope for addressing the situation where a building may be incapable of viable use due its condition. I see no need therefore for any amendment to be made to the policy to address this issue. I therefore recommend that no modification should be made to the Plan in response to objection 4253.

**(f)      *Other matters***

- 13.22.8. I have recommended in Chapter 1 of my report that the detailed guidance on Conservation Areas in Part 4 of the Plan should be deleted and reissued as supplementary planning guidance (*see paragraph 1.1.51*). In the circumstances, I would recommend that Policy 116 should be modified to highlight that this advice will be taken into account in considering applications for development within the relevant Conservation Areas. It will also be necessary to make a consequential amendment to paragraph 13.136 of the background text.

**Recommendation**

13.22.9. The Plan be modified as follows:-

(a) amend Policy 116 by:-

(i) altering the third paragraph in accordance with PIC201 and by inserting the words “*or appearance*” after the words “*established character*”;

(ii) inserting an additional sentence at the end of the policy to read:-

“In considering applications for development in Conservation Areas the Council will take account of the Character Statements for Berkhamsted, Hemel Hempstead High Street and Potten End Conservation Areas, which have been issued as supplementary planning guidance, and any similar Statements that are subsequently prepared for any other Conservation Area within the Borough.”;

(b) delete the words “*and are included in Part 4 of the Plan*” from paragraph 13.136 of the background text.

13.22.10. The Council considers producing design guidance for Conservation Areas.

### 13.23. POLICY 117 : THE MANAGEMENT OF CONSERVATION AREAS

#### Objections

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1783	Berkhamsted Town Council	2883	British Waterways

#### Supports

1392	CPRE - The Hertfordshire Society	3216	Flaunden Parish Council
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#### **Key Issues**

Should the policy include promoting restoration and enhancement of Conservation Areas. (1783)

Does the Berkhamsted Conservation Area need to be covered by an Article 4 Direction. (1783)

Should the Plan contain a prioritised work plan or should a timetable be given for producing environmental enhancement schemes. (1783, 2883)

#### **Inspector’s Conclusions**

(a) *Promotion of restoration and enhancement*

13.23.1. I have already effectively addressed this issue in paragraphs 13.22.2 and 13.22.23 above. I see no need for any further modification to the Plan in response to this element of objection 1783.

**(b) Article 4 for Berkhamsted Conservation Area**

13.23.2. Again this objection raises the same issue to that introduced under objection 1782 to Policy 116 (*see paragraph 13.22.4*). For similar reasons I find no reason for any further modification to be made to Policy 117 to meet this part of objection 1783.

**(c) Need for a prioritised work programme**

13.23.3. Both Berkhamsted Town Council and British Waterways object to the fact that the Plan gives no timetable for producing and implementing environmental enhancement schemes. The Borough Council points out that the Policy Statement in Part 4 of the Plan already sufficiently identifies the enhancement priorities for the Berkhamsted Conservation Area. It also indicates that resources are limited and the improvement schemes under the Berkhamsted Urban Design Scheme (BUDS) and the Conservation Area Partnership (CAP) schemes for Berkhamsted and Hemel Hempstead High Street Conservation Areas were one-offs. It considers that the inclusion of a timetable within the Local Plan would introduce an inappropriate level of detail in these circumstances.

13.23.4. I appreciate that the availability of resources for enhancement schemes would be difficult to predict over a ten-year period. It would not be sensible therefore for the Plan to include a detailed programme of works. In any case paragraph 2.9 of PPG15 makes clear that the formulation of proposals for individual conservation areas should be pursued separately from the local plan itself. In the circumstances I do not consider that the Plan should be modified to include a detailed timetable of enhancement schemes. However, it would be helpful in my view if the background text were to give a general indication of where resources were likely to be directed in respect of criterion (c), if and when they became available. I recommend that in response to objection 1783 and 2883 the Plan should be modified accordingly.

**Recommendation**

13.23.5. **The Plan be modified by inserting within the background text to Policy 117 a general indication of the priorities in respect of enhancement schemes for conservation areas.**

**13.24. POLICY 118 : HISTORIC PARKS AND GARDENS****Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1784	Berkhamsted Town Council	4795	The National Trust
3853	Mr S Hinchliff		

**Support**

1393	CPRE - The Hertfordshire Society
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**Key Issues**

Should the policy refer to the need to prevent the degradation of listed parks and their setting. (4795)

Does the boundary at Ashridge need to be amended. (3853)

Should the Jellicoe Water Gardens be added to the policy. (1784)

## **Inspector’s Conclusions**

### **(a) *Prevention of degradation of listed parks***

- 13.24.1. The National Trust argues that the policy should include the prevention of the degradation of listed parks and their setting. The Council contends that Policy 118 will only apply where development proposals are being considered. It could not therefore effectively prevent the degradation of historic parks and their setting where this is unrelated to development.
- 13.24.2. While the Council may have other powers to seek to prevent degradation of historic parks I acknowledge that local plan policies are primarily intended to address planning control issues. In my view degradation due to development is already covered by the reference to harm. Other causes of degradation effectively lie outside the realm of planning control. I do not consider that it would be appropriate for the Plan to be modified as the objector suggests.
- 13.24.3. However, I am concerned that the policy merely states every effort will be made to prevent loss or harm. This wording does not accord with the advice in paragraph 2.24 of PPG15, which requires local planning authorities to protect registered parks and gardens in preparing development plans and determining planning applications. In my opinion the policy would be far more robust if it indicated that development would not be permitted if it resulted in the loss of or harm to historic parks or gardens. I recommend that the Plan should be modified accordingly.

### **(b) *Boundary of Ashridge***

- 13.24.4. The objector argues that land at Cedar House, Little Gaddesden and the Deer Leap Swimming Pool should not be included in the boundary for Ashridge park shown on the Proposals Map. However, the boundaries of registered historic parks and gardens are drawn up by English Heritage and not by the Council. Consequently, it would only be appropriate for the Proposals Map to be amended if English Heritage were to indicate that they proposed to amend the boundary of Ashridge park. There is no indication that this is the case or that the inclusion of the land at Cedar House was an error on the Council’s part. I therefore recommend that no modification should be made to the Plan in response to objection 3853.

### **(c) *Jellicoe Water Gardens***

- 13.24.5. Berkhamsted Town Council considers that there are a number of newer parks that should be listed, including the Jellicoe Water Gardens the design of which is of national significance. The Borough Council points out that additions to the list would be a matter for English Heritage and lies outside the Local Plan process.
- 13.24.6. While the inclusion of parks and gardens on the Register of Parks and Gardens of Special Historic Interest is clearly a matter from English Heritage this does not prevent the Council from seeking to protect unregistered parks and gardens of local historic interest. Indeed Policy 38 of the adopted Structure Plan Review specifically refers to unregistered historic parks and gardens, and their setting, as being one of the important

environmental assets that should be protected from development that would cause loss, permanent damage or significant and irreversible change to their special quality.

- 13.24.7. The current wording of the first paragraph of the policy would actually allow it to be applied to any historic park or garden. It is merely the second paragraph that could be taken to imply that it relates only to those gardens listed in the policy which are included on English Heritage’s register. In my view the policy would more closely conform to Policy 38 of the Structure Plan Review if it also made clear that it would be applied to unregistered historic parks and gardens.
- 13.24.8. Although the objector refers to a number of newer parks that should be included in the policy the only one it specifically identifies is the Jellicoe Water Gardens. These clearly constitute an important example of a mid C20th civic landscape. Whether they are of sufficient merit to be included on the national register, bearing in mind the significant changes that have been made to them, would be a matter for English Heritage to decide. However, I have no doubt that they are of sufficient local importance to merit protection. Whether there are other unregistered historic parks or gardens in the Borough that would merit retention is a matter I leave to the Council to determine. I therefore recommend that Policy 118 should be modified to clarify that it also covers unregistered historic parks and gardens that are considered to be of significant local merit.

### Recommendation

13.24.9. The Plan be modified by amending Policy 118 as follows:-

(a) Delete the words “*Every effort will be made to prevent*” and substitute the words “*Development will not be permitted where it would result in*”;

(b) Add a sentence at the end of the policy to read :-

“This policy also applies to unregistered historic parks and gardens, like the Jellicoe Water Gardens, which are considered to be of significant local interest.”

## 13.25. POLICY 119 : HAZARDOUS SUBSTANCES

### Support

Rep No  
1394

Name  
CPRE - The Hertfordshire Society

### Supports for pre-inquiry changes

For pre-inquiry change 202

5521 CPRE - The Hertfordshire Society

For pre-inquiry change 203

5522PC CPRE - The Hertfordshire Society

## 13.26. POLICY 120 : MINERAL WORKINGS AND WASTE DISPOSAL

**Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
2914*	Environment Agency	5119	Tring Environmental Forum

**Key Issues**

Should the text of the Plan indicate that the Council will consult the Environment Agency before commenting on proposals for mineral extraction, waste disposal or land restoration. (2914)

- (b) Should the policy be amended to provide guidance on issues relating to instability and landfill gas on filled sites. (5119)

**Inspector’s Conclusions****(a) Consultation with Environment Agency**

13.26.1. The Council is itself a consultee on mineral extraction, waste disposal and land restoration proposals, as decisions on these matters are made by Hertfordshire County Council. Consequently, I share the Borough Council’s view that the County Council is the appropriate authority to undertake any consultation with the Environment Agency. I recommend no change in response to this objection.

**(b) Instability and landfill gas**

13.26.2. The objector highlights the two most commonly experienced problems relating to the after-use of filled sites, and considers that the policy should provide safeguards to ensure that these hazards are properly dealt with. The Council points out that Dacorum has few landfill or minerals sites, and that most of these are in the countryside where built after-uses would not normally be acceptable. Furthermore, any new sites would be subject to restoration conditions. This should ensure that problems of instability and landfill gas are minimised, particularly if a developed after-use is envisaged.

13.26.3. Whilst I agree that instability and landfill gas are matters that would normally need to be addressed, in a District where such issues are unlikely to arise, I consider that it is unnecessary to highlight them. Furthermore, in the context of such a simple, generalised policy, I do not think that it would be sensible to refer to one specific aspect in the way suggested by the objector. Consequently, I recommend no change should be made to the Plan in response to this objection.

**Recommendation**

13.26.4. No modification be made in response to these objections.

**13.27. SUGGESTED NEW POLICY****Objections**

<i>Rep No</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
1218	Orange Personal Communications Services Ltd	4974L	English Nature
1252	The Chiltern Society	4975L	English Nature
3763	Government Office for East of England	4976L	English Nature



3764	Government Office for East of England	4977L	English Nature
3765	Government Office for East of England	4978L	English Nature
4017	HCC Environment Department	4979L	English Nature
4023*	HCC Environment Department	4980L	English Nature
4024*	HCC Environment Department	5120	Tring Environmental Forum
4956L	English Nature	5121	Tring Environmental Forum
4966L	English Nature	5122	Tring Environmental Forum
4967L	English Nature	5123	Tring Environmental Forum
4968L	English Nature	5124	Tring Environmental Forum
4969L	English Nature	5125	Tring Environmental Forum
4970L	English Nature	5126	Tring Environmental Forum
4971L	English Nature	5127	Tring Environmental Forum
4972L	English Nature	5128	Tring Environmental Forum
4973L	English Nature		

### **Counter Objections**

To pre-inquiry change 204

5731PC The House Builders’ Federation

To pre-inquiry change 205

5309 HCC Environment Department

To pre-inquiry change 206

5280PC Railtrack Property (Town Planning) Railtrack plc

5729PC The House Builders’ Federation

5310 HCC Environment Department

### **Supports for pre-inquiry changes**

For pre-inquiry change 204

5524PC CPRE - The Hertfordshire Society

For pre-inquiry change 205

5523PC CPRE - The Hertfordshire Society

For pre-inquiry change 206

5525PC CPRE - The Hertfordshire Society

## **Key Issues**

Is a policy covering the telecommunications development in Part 25 of the Town and Country Planning (General Permitted Development) Order 1995 also required. (1218)

Does the Plan need to contain a waste management policy. If so is the wording proposed by PIC206 appropriate or does in conflict with Government advice. (4024, 5126, 5280PC, 5310PC, 5729PC)

Would the Plan be improved by the inclusion of a new policy on energy conservation. (5128)

Should the Plan include a policy to secure a contribution to public works of art. Does the policy need to make clear that such contributions would be voluntary. (3765, 5731PC)

Does there need to be a policy to safeguard mineral resources. Should it refer to the County Council as the Mineral Planning Authority. (4023, 5309PC)

Should a policy on implementing the Dacorum Local Agenda 21 be added to the Plan. (1252)

Is a new policy on groundwater protection and non-point source pollution necessary. (5121)

Should a new policy on water storage facilities be added to the Plan. (5124)

Would a new policy on development in floodplains improve the Plan. (3763, 5122)

Should the Plan contain a policy on renewable energy. (4017, 5127)

Does an environmental keynote policy need to be introduced at the start of the Environment chapter. (4956)

Should the Environment chapter be the first topic chapter in the Plan. (4956)

Is a new policy on development on unstable land or contaminated land necessary. (3764, 5125)

(n) Should a policy be included to cover sites of international importance for nature conservation. (4966L)



- (o) Is a separate policy on nationally designated sites of nature conservation importance necessary. (4967L)
- (p) Does a separate policy need to be included for sites of local nature conservation interest. (4968L)
- (q) Should there be an area protection policy related to nature conservation. (4969L)
- (r) Is a policy on features of major importance for nature conservation needed. (4970L)
- (s) Should there be a policy to cover wildlife corridors and green wedges. (4971L)
- (t) Is a policy required in respect of habitat creation/enhancement. (4972L)
- (u) Should the plan include a policy on the protection of specially protected species. (4973L, 5120)
- (v) Would the Plan be improved if it incorporated a policy relating to the designation of Local Nature Reserves (LNRs). (4974L)
- (w) Should the Plan cover specific threats to nature conservation. (4975L)
- (x) Does the Plan need to address the question of access to nature conservation sites. (4976L, 4977L)
- (y) Is there a need for policies relating to specific habitats within the Borough. (4978L)
- (z) Should the Plan include a policy on environmental assessment. (4979L)
- (aa) Does the Plan need to include a policy on Biodiversity. (4980L)
- (bb) Is there a need for a policy on ecological buffer zones. (5123)

## Inspector’s Conclusions

### (a) *Telecommunications development*

- 13.27.1. I have already considered this issue in relation to the objections to Policy 109 (*see paragraph 13.15.4*) where I have concluded that the creation of a separate policy for non-licensed facilities would create unnecessary duplication. I therefore recommend that no modification should be made to the Plan in response to objection 1218.

### (b) *Waste management*

- 13.27.2. The County Council and Tring Environmental Forum suggest that the Plan should be modified to take account of the policies in the Hertfordshire Waste Local Plan in order to promote sustainable waste management. The Borough Council accepts this criticism and proposes to amend the Plan under PIC206 to include a new policy (Policy 122) on waste management. The House Builders Federation (HBF), Railtrack plc and the County Council object to this change. The HBF considers that it conflicts with national advice. Railtrack plc argues that it should give greater emphasis to the transportation of waste by rail and water and the County Council suggests that it should clarify that it is the relevant authority for waste management matters. The Borough Council proposes to address this last objection by making a further amendment to the background text under FC117.

- 13.27.3. Although national policy advises against the inclusion of waste management policies in local plans I consider that Policy 122 is primarily aimed at making provision for appropriate recycling and waste collection as part of major new development. Since this matter would be dealt with under the provisions of the planning permission it would clearly be under the direct control of the Borough Council. In the circumstances I consider that it is reasonable for such a policy to be included in the Local Plan. I appreciate that Policy 122 to some extent duplicates Policy 11 of the Waste Local Plan. However, I have some concern as to how this policy could be effectively enforced. It is the Borough Council and not the County Council who would be the determining authority in respect of major development proposals and the County Council would have no power to direct how it should deal with such proposals.
- 13.27.4. I appreciate that as the Waste Local Plan forms part of the Development Plan the Borough Council would be required to determine any application in accordance with it unless material considerations indicate otherwise. However, the difficulty with Policy 11 is it merely states that the County Council will have regard to the provision that already exists. Overall therefore I consider that it would be appropriate in this particular instance for the Local Plan to include a policy which is specifically related to the provision of appropriate recycling facilities in major developments. I agree, however, with the HBF that to broaden it beyond this would be inappropriate bearing in mind that the County Council is the authority responsible for waste management matters.
- 13.27.5. I am concerned, however, about the wording of the policy and the background text. The first part of the policy is a vague expectation that merely encourages developers to do various things. In my view therefore it would be almost impossible to effectively enforce. The paragraph regarding the reuse of materials accords with government policy but is not strictly a land use policy. The final part relating to major developments is acceptable in principle but again it is not phrased as a land use policy. In my view it is better enunciated in WLP Policy 11 which includes criteria applicable to the determination of planning applications.
- 13.27.6. Turning to the background text much of this unnecessary as it merely re-iterates the Waste Local Plan, which already forms part of the Development Plan. I consider therefore that the proposed new policy needs to be carefully remodelled to include clear criteria for assessing when provision for recycling facilities would be required as part of a development proposal. In addition, the background text needs to be radically reduced to avoid duplication. I recommend that PIC206 is not adopted and instead the Plan is modified by the insertion of a briefer land use policy and background text relating to the provision of appropriate recycling facilities on major developments.
- 13.27.7. In reaching my conclusions on this issue I have noted the suggestion of Railtrack that the policy should address the transportation of waste. However, in my view this would take the policy beyond the area that is within the remit of the Borough Council. In any case, I consider this matter is already adequately addressed by Policy 43 of the Waste Local Plan. However, I am satisfied that the proposed further change (FC117) would improve the clarity of the background text and I therefore endorse it.

**(c) Energy conservation**

- 13.27.8. I have already addressed this issue at paragraph 6.8.4 of my report in relation to objection 5184. The table following paragraph 4.4 of PPG12 indicates that energy conservation, the efficient use of energy, global climate change and reduction in greenhouse gases are appropriate considerations for development plans. The Council clearly concedes this but consider that it would require a lot of detailed work and therefore proposes to address this issue at a later stage and insert a reference to this further work in Part 1 of the Plan under PIC2.
- 13.27.9. While I accept that detailed guidelines will necessitate considerable additional work, I do not think the insertion of a basic policy on energy conservation to highlight the fact that it will be a material consideration in respect of development proposals would be that difficult. If the Council proposes to produce supplementary planning guidance on this issue it will be essential for Plan to contain a relevant policy for it to relate to if it is to carry significant weight. The advice in paragraphs 3.15 to 3.17 of PPG12 confirms the importance of supplementary guidance deriving out of and being consistent with the development plan. In the circumstances, I recommend that the Plan should be modified by the insertion of a policy on energy conservation. (*see also recommendation at paragraph 6.8.14 of my report*)

**(d) Public works of Art**

- 13.27.10. The Government Office points out that the Plan includes no policy on percent for art. The Council accepts this and proposes to insert a new policy (118A), under PIC204, to address this issue. The HBF object to the second sentence of the new policy on the basis that it implies that the local planning authority would take account of whether such contributions are offered in determining planning applications. The Council argues that this is merely intended to imply that the visual impact of the art would be taken into account.
- 13.27.11. I accept that the inclusion of a policy on public works of art would comply with Government’s objectives for art. There is no indication in the proposed policy that it is intended to be anything but voluntary. I consider that it is entirely reasonable for it to indicate that account will be taken of the contribution of the new works of art to the appearance of the scheme and its relationship with the character of the surrounding area. In my view these are relevant material considerations. I do not accept the HBF’s view that this could be taken to imply that account would be taken of whether or not such contributions are offered in determining the planning applications. The Council would clearly not be entitled to do so. I therefore support PIC205 and recommend that the Plan be modified accordingly. I see no need for any further modification to be made in response to objection 5731PC.

**(e) Safeguarding mineral resources**

- 13.27.12. The Borough Council accepts the County Council’s suggestion that a policy is required to safeguard known mineral resources, and by PIC205 introduces Policy 121. A further change (FC169) to the wording of PIC205 recognises the role of the County Council as minerals planning authority. I agree that it is important not to unnecessarily sterilise finite mineral resources, and I support these changes.

**(f) Local Agenda 21**

- 13.27.13. The objector points out that there has been no change to the Environment Section of the Plan since 1995 despite the publication in 1997 of the Dacorum Local Agenda 21. It therefore suggests that a policy should be included to support the early implementation of the Local Agenda 21 program. The Council argues that there is no justification for including a policy relating to Local Agenda 21 as it this is a wide ranging document many aspects of which are not related to land use planning.
- 13.27.14. I have already addressed this matter briefly in paragraphs 4.2.4 to 4.2.6 of my report where I have concluded that it would not be appropriate for a policy to be included in relation to Local Agenda 21. However, paragraph 4.3 of PPG12 indicates that progress towards sustainable development can only be made if the various objectives are considered in a holistic way. It makes clear that local authorities should be seeking to incorporate their work on Agenda 21 into the planning process. In the circumstances I consider that the Plan should indicate how it has sought to implement those parts of Local Agenda 21 which relate to land use planning. I have therefore recommended in paragraph 4.2.26 of my report that the background text of the Plan should be amended to identify the relevant aims and objectives of Local Agenda 21 that have influenced the formulation of the Development Strategy. I see no need for any further modification to be made to the Plan in the light of objection 1252.

**(g) Groundwater protection**

- 13.27.15. The objector believes that the references in the Plan to water pollution are vague and inadequate, as they fail to address the water pollution aspects of development. Two specific additional policies are suggested, one seeking to resist development that would pose a risk to groundwater quality, the other to ensure that diffuse urban surface water run-off is free from pollution.
- 13.27.16. I accept that these are important considerations which development proposals should address. However, the matters are considered in broad terms under Policy 9, the general development control policy, which seeks to avoid harm from all potential sources of pollution. Further advice is given in the Environmental Guidelines, which includes a reference to the Environment Agency’s best practice guide, and indicates that special precautions may be required in areas of groundwater supply. In my view this approach is appropriate, for a policy which aims to avoid harm to the water environment has the advantage of being applicable to a wide range of situations. In addition, there must be many specific aspects of Policy 9 that could be elaborated in the way suggested by the objector, but in my view these would only serve to over-complicate an already long and cumbersome Plan.
- 13.27.17. I note that there was no objection from the Environment Agency to the omissions identified by the objector. This lends weight to my view that the Plan deals adequately with these matters. I, therefore, recommend no change in response to this objection.

**(h) Water storage**

- 13.27.18. The objector believes that the effects of climate change could lead to an increased need for water storage to augment supplies over the drier summer months. It is suggested that a criteria-based policy calling for non-public water storage facilities is warranted,

particularly for agricultural and industrial users. The Council indicates that Dacorum is not an area where there is a particularly high demand for water for irrigation purposes. Consequently it considers that the suggestion in Annex C of PPG7 about supplementary planning guidance for farm reservoirs is not relevant to the Borough.

13.27.19. Clearly the creation of reservoirs or other major sources for water storage is not sufficiently critical to the development strategy or the determination of planning applications to merit a specific local plan policy. However, while the Environmental Guidelines promote a reduction in the demand for water in both the industrial and residential design sections I am concerned that with their deletion there would be nothing in the Plan to address this general issue. Water conservation is likely to become of growing importance especially in the light of the increasing demands for water and the possible effects of climate change. I consider therefore that the Plan would be improved if it were to include a broad overarching policy on this issue. I recommend that the Plan be modified accordingly in response to this objection.

**(i)      *Development in floodplains***

13.27.20. The Government Office recommends that a policy on development in floodplains should be included in the Plan, in accordance with the advice in Circular 30/92. Tring Environmental Forum makes a similar suggestion, recommending that it should be based on the Environment Agency’s policy for the protection of floodplains. In my view these objections now have greater relevance following the publication, since the close of the inquiry, of PPG25: *Planning and Flood Risk*. This gives guidance on the role of the planning system in ensuring that flood risk is properly taken into account in the planning of developments, thereby reducing the risk of flooding and the damage which floods cause. It introduces the concept of the precautionary principle to the management of development and flood risk, and establishes a risk-based approach and a sequential test for development in areas liable to flooding.

13.27.21. It is evident that the Council has taken into account the risk of flooding in its assessment and selection of Proposals Sites for housing, employment and other development. Moreover, in the light of the advice in PPG25, I have recommended that one of the allocated sites (TWA23) should be deleted, partly because it lies within an area at high risk from flooding. But PPG25 promotes a more proactive approach, advising that policies in development plans should outline the consideration which will be given to flood issues, recognising the uncertainties that are inherent in the prediction of flooding and the fact that flood risk is expected to increase as a result of climate change.

13.27.22. In the light of this new advice, I agree that the Plan’s approach to development and flood risk should be strengthened. I consider that a policy is required for the areas of flood risk, setting out the approach to development so as to minimise and manage the risk. Other than emphasising that the policy should be based on the approach in PPG25, I leave the precise wording to the Council. I do not believe that it would be appropriate, as Tring Environmental Forum suggests, to include the flood plains on the Proposals Map, though I accept that some advice about the areas of flood risk should be given. In my view this should take the form of supplementary planning guidance, and would be best included within the Environmental Guidelines.

- 13.27.23. PPG25 also examines the opportunities for reducing run-off from developments in the catchment of rivers that are liable to flood. Paragraph 56 indicates that local plans should include policies in local plans which promote the use of more sustainable drainage systems in appropriate areas, so as to control the water from new development as near to its source as possible. Detailed advice on sustainable drainage systems is given in Appendix E of PPG25.
- 13.27.24. Most of the major development sites proposed in the Plan are in the catchment of the Rivers Gade or Bulbourne, and have the potential to increase the risk of flooding downstream. This matter was examined by consultants who prepared a report for the Council in 1998 entitled “Identification of Flood Risk in Dacorum, Hertfordshire and Flood Hazard Management”. One of the recommendations of this study was that neighbouring Councils should be encouraged to adopt a policy requiring surface water management systems on large development sites which mitigate the adverse effects of surface water run-off. It seems to me that this advice should apply equally to the sites in Dacorum. In these circumstances I consider that an additional policy is required in the Plan to promote sustainable drainage systems.

**(j) Renewable energy**

- 13.27.25. The County Council and Tring Environmental Forum suggest that the Plan should include a policy on renewable energy. The Borough Council acknowledges that PPG22 states that local plans should include detailed policies for developing renewable energy sources and identifying broad locations or specific sites suitable for the various types. It points out that paragraph 432 of the Structure Plan identifies the best opportunities for renewable energy projects in Hertfordshire are active and passive solar sources, municipal solid waste and general commercial land industrial waste, short rotation coppice and forestry and straw. It also refers to the fact that Part 2 of the Environmental Guidelines draws attention to the issue of renewable sources of energy. It suggests that the development of these sources is at too early a stage to warrant a policy in the Local Plan.
- 13.27.26. I am not satisfied that the brief reference in Part 2 of the Environmental Guidelines to the advice in “Sustainable Settlements” (CD86) is sufficient to comply with the advice in paragraph 25 of PPG22. I appreciate that Policy 54 of the Structure Plan Review is fairly general in nature and note that development of the main sources of renewable energy generation is at an early stage in Hertfordshire. However, I consider that there is a strong probability that this will change in the life of the Plan. I consider the failure of the Plan to include a clear policy on this issue could leave the Council in some difficulty if applications start to come forward for renewable energy projects.
- 13.27.27. Although more detailed advice could be left to the production of supplementary planning guidance I consider that it would be sensible for the Plan to include a policy to outline the general principles the Council would be likely to adopt in considering any applications for renewable energy projects. In view of the type of schemes that are likely to come forward and the early stage in their development I do not consider that it would be appropriate at this stage for the Plan to identify either broad locations or specific sites for such projects. I recommend therefore that the Plan should be modified to include a policy on renewable energy setting out the broad principles that the Council would take into account in considering planning applications in respect of renewable energy projects.

**(k) Environmental keynote policy**

13.27.28. English Nature suggests that this section of the Plan should include an environmental keynote policy. However, I consider that the policy suggested by the objector is unduly vague and would add nothing of value to the Plan. Accordingly I recommend that no modification should be made to the Plan in response to this element of objection 4956L.

**(l) Should Environment chapter be first in Plan**

13.27.29. I have already addressed this issue at paragraphs 4.1.6 and 4.1.7 of my report in relation to objection 4930L. I concluded there that as the Plan has to be read as a whole there was no real advantage in moving the Environment section forward to make it the first chapter in the Plan. Consequently, I recommend no modification should be made to the Plan in response to this part of objection 4956L.

**(m) Development on unstable or contaminated land**

13.27.30. The Government Office considers that the Plan should include a policy on unstable land, in line with the advice in PPG14. The Council believes that this is unnecessary, as Hertfordshire has one of the lowest incidences of landslides in the country. It also points out that the Structure Plan does not have a policy on unstable land.

13.27.31. PPG14 requires local authorities to take into account the possibility of ground instability in preparing their development plans. It indicates that these plans provide the opportunity to set out policies for the reclamation and use of unstable land. There is no suggestion, however, that all plans should include such policies. In my view there is little point in devising a policy to cover circumstances that are unlikely to arise in the Borough. I do not believe, therefore, that a policy on unstable land is necessary.

13.27.32. Both objectors believe that the plan should include a policy on contaminated land. The Government Office points to the advice in PPG23, while Tring Environmental Forum believes that a risk assessment should be required to establish whether a site is capable of being cleaned up. In some cases the Forum believes that the harm from moving contaminated material is such that it should be left where it is, with the site being unsuitable for built development uses as a consequence.

13.27.33. PPG23 contains a presumption that contaminated brownfield sites should be recycled into new uses, thereby reducing the pressure for development on greenfield sites. It indicates that the potential for contamination can be a material consideration that should be taken into account at both the development plan and planning application stages. The Council points out that there is very little contaminated land in Dacorum, for there are few former mineral workings that have been infilled with waste material. It acknowledges that some former industrial sites do require remediation, but argues that the matter is appropriately addressed in the “Planning Requirements” for the sites that are so affected.

13.27.34. It seems to me that the issue of potential contamination has been addressed during the preparation of the Local Plan, for sites where remediation is needed are specifically identified. I note that Structure Plan Policy 45 supports the restoration of damaged and contaminated land where schemes would not give rise to unacceptable environmental

effects. However, there is no evidence to suggest that the Council has not properly applied this policy in the site selection process. In the light of the limited incidence of contaminated land in Dacorum I am not satisfied that a specific policy would be justified, particularly where the existing strategic and national policy framework are sufficient to deal with the few cases that do arise. I, therefore, recommend no change to the Plan in response to these objections.

**(n) *Sites of international importance for nature conservation***

13.27.35. Since there are no sites of international importance for nature conservation in the Borough and no indication that any are likely to be designated during the life of the Plan I consider that an additional policy covering this issue would serve no useful purpose. Consequently I recommend that no modification should be made to the Plan in response to objection 4966L.

**(o) *Nationally designated sites of nature conservation importance***

13.27.36. I have effectively already addressed this issue when addressing the objections to Policy 103 (*see paragraphs 13.9.1 to 13.9.4*). I am satisfied that the revised Policy 103A that I have recommended in paragraph 13.9.14 should be included in the Plan would sufficiently address this objection. I do not consider that the inclusion of a reference to proposals being subject to “*special scrutiny*” would add anything to the policy despite the fact that this phrase is used in PPG9. I therefore recommend no further modification should be made to the Plan in response to objection 4967L.

**(p) *Sites of local nature conservation interest***

13.27.37. Again I have covered this issue in paragraphs 13.9.1 to 13.9.4 where I have concluded that it would be more appropriate for a separate policy to be included in the Plan to address Local Nature Reserves and Regionally Important Geological and Geomorphological Sites as suggested by the objector. I therefore recommend that in response to objection 4968L the Plan should be modified to include an additional policy (Policy 103B) in accordance with my recommendation as paragraph 13.9.14 of my report.

**(q) *Area protection policy for nature conservation***

13.27.38. There is no evidence that there are any areas that would justify protection that would not already be adequately covered by the revised Policies 103, A, B and C. Accordingly, I see no need for a further policy covering this issue. In consequence I recommend no further modification should be made to the Plan in accordance with objection 4969L.

**(r) *Features of major importance to nature conservation***

13.27.39. Paragraph 16 of PPG9 makes clear that countryside features which provide wildlife corridors, links or stepping stones from one habitat to another all help to form a network necessary to ensure the maintenance of the current range and diversity of our flora, fauna, geological and landform features. More importantly regulation 37 of the Conservation (Natural Habitats & C) Regulations 1994 indicates that policies for the conservation of the natural beauty and amenity of land should include policies which



encourage the management of features of the landscape which are of major importance for wild flora and fauna.

13.27.40. While the revised policy 103C would cover most locally recognised sites of nature conservation interest including those supporting species protected by law it would not specifically cover the protection and management of linear landscape features which can form important stepping stones between specific habitats. However, I consider that most of these features are already reasonably well protected by other policies of the Plan, including Policy 100 (Woodlands and hedgerows) and Policy 104 (River corridors). While bringing all these features into one policy would have certain benefits I consider that in this case it would lead to unnecessary duplication in an already overlong Plan. My view is reinforced by the fact that all these policies are already effectively tied together by criterion (e) of Policy 9, which requires any development to retain, not adversely affect and where appropriate enhance important landscape, natural and ecological features. I do not consider therefore that the policy suggested by the objector should be included in this instance.

13.27.41. However, there are two areas which I am not satisfied would be adequately covered by the Plan. The first is the nature conservation importance of the canal. While the Council in its response refers to Policy 112, which deals with the canalside environment, this policy actually makes no mention of the nature conservation interest of the canal. Policy 84 does refer to development having no adverse impact on the nature conservation interest of the canal. However, this policy only deals with low key recreational developments. Other developments would not specifically be subject to this requirement. I judge, therefore, that it would be appropriate to add a similar requirement to Policy 112.

13.27.42. In addition, if my recommendation that the Environmental Guidelines be deleted from the Plan and reissued as supplementary planning guidance is adopted the Plan itself would have no policy covering lakes, reservoirs and ponds other than the general reference in criterion (e) of Policy 9. While I would not wish to add to the length of the Plan I consider that it could benefit from an additional policy to cover this point. It would probably make most sense for this to follow Policy 104. I therefore recommend that in response to objection 4970L the Plan should be modified by amending Policy 112 to include a reference to nature conservation and to insert an additional policy covering development affecting lakes, reservoirs and ponds.

**(s) *Wildlife corridors and green wedges***

13.27.43. Revised Policy 103C would include the important green corridors currently listed in Policy 103 of the Deposit Draft. I am satisfied that this together with the policies relating to hedgerows and river valleys would be sufficient to provide appropriate protection for wildlife corridors and green wedges. I therefore recommend that no modification should be made to the Plan in the light of objection 4971L.

**(t) *Habitat creation***

13.27.44. Although the revised policies 103A to 103D would adequately cover the retention and management of sites of nature conservation importance none of them specifically seek to increase the number, size and diversity of such sites or to require the creation of appropriate new habitats as part of new developments. However, I am not persuaded

that an additional policy is needed to cover this issue. If criterion (e) of Policy 105 is retained within the background text to Policy 103 as I have recommended I am satisfied that it would give sufficient flexibility for the Council to require new habitats to be created in new developments where this was considered appropriate. I therefore see no need for any modification to be made to the Plan in this respect in answer to objection 4972L.

**(u) *Specially protected species***

13.27.45. I agree with the objector that a brief reference to species protected by law within a site-based policy would not provide sufficient protection from the effects of development for protected species. As such I believe that Policy 103 as originally worded would have failed to meet the requirements of PPG9. However, I am satisfied that the revised wording to Policy 103C that I have suggested would be sufficient to ensure that both wildlife sites and specially protected species would be adequately protected within the Plan. I see no need therefore for an additional policy to cover this matter. Consequently I recommend that no further modification should be made to the Plan in response to objections 4973L and 5120.

**(v) *Designation of Local Nature Reserves (LNRs)***

13.27.46. Policy 103B would be sufficient in my view to cover the designation of new LNRs. I find no need therefore for any further modification to be made to the Plan in response to objection 4974L.

**(w) *Specific threats to nature conservation***

13.27.47. It is not entirely clear what the additional policy sought by the objector would achieve which is not already provided for by the policies I have already recommended should be included in the Plan. I see no reason therefore to make any further modification to the Plan in order to address objection 4975L.

**(x) *Access to nature conservation sites***

13.27.48. I consider that the question of access is adequately covered by Policies 103B and 103C when considered in conjunction with the provisions of Policies 9, 62 and 64. I am not persuaded therefore that a specific policy dealing solely with access to sites of nature conservation interest would improve the Plan. I therefore recommend that no modification should be made to the Plan in response to objections 4976L and 4977L.

**(y) *Specific habitat policies***

13.27.49. While there may be occasions where a specific nature conservation resource may be of such importance in the context of the local authority as to merit a specific policy provision there is no evidence that this is the case in Dacorum. As a result I recommend that no modification should be made to the Plan in response to objection 4978L.

**(z) Environmental Assessment**

13.27.50. The issue of impact studies or environmental assessments in respect of new development proposals is already covered by Policy 9 of the Plan. I do not consider that the new policy proposed by English Nature would add anything of value to this. I therefore recommend no modification should be made to the Plan in response to objection 4979L.

**(aa) Biodiversity**

13.27.51. Biodiversity considerations are referred to in the revised Policy 103C. In my view this would be adequate to deal with the points raised by the objector. In consequence I find no need for any further modification to be made to the Plan in answer to objection 4980L.

**(bb) Ecological buffer zones**

13.27.52. While I accept that it may be appropriate in some instance to seek the creation of ecological buffer zones or wide belts of ‘green space’ on some development sites, I do not consider it would be reasonable to seek these as a matter of course on all developments. The absence of a specific policy would not prevent the Council seeking the creation of new habitats on appropriate sites under the provisions of criterion (e) of Policy 105. I therefore recommend that no modification should be made to the Plan in the light of objection 5123.

**Recommendation**

13.27.53. The Plan be modified as follows:

- (a) insert a new policy and background text relating to the provision of waste facilities on major development sites along the following lines:**

**POLICY 122 STORAGE AND RECYCLING OF WASTE ON DEVELOPMENT SITES**

**Developers will be expected to provide adequate space and facilities for the separation, storage, collection and recycling of waste within the following major developments:-**

**Residential developments of 100 or more dwellings;**

**Development, redevelopment or refurbishment of shopping centres or other retail facilities where the floorspace of existing and new development amounts to 500 square metres or more;**

**Development, redevelopment or refurbishment for business, industrial, distribution or storage involving a net increase in floorspace of 500 square metres or more;**

**Major transport, leisure, recreation, tourist or community facilities.**

**All major new developments and any other proposals likely to attract large numbers of people should also provide facilities for the public to recycle waste.**

**In considering whether a development has provided adequate space and facilities in relation to this policy the Council will have regard to the different types of waste, the space and type of facilities needed and existing provision within the locality.**

Reasons

Reuse and recycling of materials can reduce the amount of waste for disposal.

*Background*

*The County Council is responsible for planning matters relating to waste management (including disposal) operations. The Hertfordshire Waste Local Plan sets out policies for the management of waste, particularly for land associated with salvaging, recovering, recycling, transferring and disposing of waste*

*All development proposals however have waste management implications and give rise to waste. The Council will therefore seek to ensure that proposals for major development and those which would attract large numbers of people make appropriate provision for the storage, collection and recycling of waste in accordance with the advice in Planning Policy Guidance Note 10; ‘Planning and Waste Management’, which sets out the principles which waste management decisions should be based on.*

- (b) add a new policy on energy conservation;(see also recommendation at 6.8.14)**
- (c) insert new policy on works of art in accordance with PIC204**
- (d) incorporate a policy in respect of safeguarding mineral resources in accordance with PIC205 and FC169;**
- (e) add a new policy on water conservation;**
- (f) insert an additional policy on renewable energy outlining the broad principles that the Council would take into account in considering planning applications in relation to renewable energy projects.**
- (g) add a new policy on development in areas of flood risk setting out the approach that will be taken to minimise and manage the risk taking account of the advice in PPG25;**
- (h) include an additional policy to promote the introduction of sustainable drainage systems on new developments;**

(i) amend Policy 112 by inserting the words “*and have no adverse impact on its nature conservation interest*” at the end of the second sentence.

(j) insert an additional policy after Policy 104 along the following lines:-

**“POLICY 104A      LAKES, RESERVOIRS AND PONDS.**

**Any development adversely affecting, either directly or indirectly, the nature conservation or landscape interest of any lake, reservoir, pond or other body of open water will only be permitted where it can be demonstrated that the reasons for the development outweigh the need to retain the feature.”**

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### **13.28.    ENVIRONMENT PROPOSAL EN1**

**Support**

*Rep No*  
754

*Name*

Herts and Middlesex Wildlife Trust

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### **13.29.    ENVIRONMENT PROPOSAL EN2**

**Support**

*Rep No*  
755

*Name*

Herts and Middlesex Wildlife Trust

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END OF CHAPTER 13