

CHAPTER 2 – INTRODUCTION

2.1. INTRODUCTION: GENERAL

Objections

<i>Rep No.</i>	<i>Name</i>	<i>Rep No.</i>	<i>Name</i>
5048	Tring Environmental Forum	5051	Tring Environmental Forum
5049	Tring Environmental Forum		

Key Issues

- (a) Is the legal basis of the Plan appropriately stated and are the stated functions of the Plan in accordance with section 36 of the Town & Country Planning Act 1990. (5048, 5049)
- (b) Should material be added to sections 1 and 2 to provide a fuller explanation of what is covered within the framework of the Plan. (5048, 5049)
- (c) Should reference be made in Part 1 of the Plan to other strategic documents such as “Planning for Sustainable Development”¹. (5049)
- (d) Does the Deposit Draft provide enough information to enable the lay person to understand the function of the Plan and how policies relate to other aspects of planning. (5051)

Inspector’s Conclusions

(a) Legal basis of the Plan

- 2.1.1 Section 1 gives a simple and concise statement on the legal basis for the Local Plan. I am not persuaded that it conflicts with section 36 of the Town and Country Planning Act 1990 (the 1990 Act). A more comprehensive statement referring to all relevant legislation and guidance would not assist the Plan in carrying out its aims. In my view it would only make the document more complex and less readable. I can see no reason, therefore, for further elaboration on this text.
- 2.1.2 I appreciate that the Deposit Draft refers to the superseded version of PPG12 (CD9). I am satisfied, however, that the Council’s proposed further change (FC13) would remedy this defect. I therefore support this change.
- 2.1.3 With regard to the section covering the function of the Plan, I fail to see how it can be said to conflict with any of the sub-sections in section 36 of the 1990 Act. The functions listed are acceptable, with the exception of the one relating to bringing planning issues before the public. Although public consultation is an important and integral part of the development plan process, I’m not sure that it is strictly a function of the adopted Local Plan. I am aware that increasing community awareness and involvement is one of the sustainability aims of the Structure Plan but I do not consider this is the most appropriate way for including such an aim within the Local Plan. Accordingly, I believe it would be better if this ‘function’ were deleted.

¹ “Planning for Sustainable Development : Towards Better Practice” published by the Department of Environment, Transport & the Regions in October 1998.

(b) Framework of the Plan

- 2.1.4 The aim of the Local Plan is to implement national and regional policy at a local level, not to act as an encyclopaedia of planning. In general terms, Part 1 of the Plan would seem to give adequate guidance on the framework in which the Plan sits and how the policies in the Plan will be used.

(c) Reference to other strategic documents

- 2.1.5 Guidance on sustainable development has increasingly gained in prominence and has filtered through to planning policy guidance notes, regional planning guidance and development plans. The concept is now the underlying principle of all these documents, including the Deposit Draft.
- 2.1.6 The objector contends that the Plan should refer to "Planning for Sustainable Development: Towards Better practice", which contains detailed guidelines. This particular document takes the principles of sustainable development and endeavours to guide, primarily, those who produce the Development Plan. It is not intended, however, to form part of the Development Plan and should not be used as such. I therefore see no need to make specific reference to it within the Plan.

(d) Does the Deposit Draft provide enough information for the layperson?

- 2.1.7 I appreciate the reasons why the objector considers that Part 1 does not give sufficient information to the lay person to understand the function of the Plan. However, I am not satisfied the Local Plan is the appropriate place to set out a detailed explanation of the planning process. In my view Part 1 of the Plan already adequately explains the relationship of the Local Plan to Regional Planning Guidance and the Structure Plan. Section 8 also indicates how planning applications will be dealt with. I find no reason therefore for adding a further section to the Plan to address these issues.
- 2.1.8 While reference to other relevant government publications might assist the lay reader in some cases, it could just as easily confuse them, especially as the documents could be withdrawn or replaced at any time during the plan period. In the circumstances, I am not convinced that such a modification would improve the accessibility of the Plan for the layman.

Recommendation

- 2.1.9 **The Plan be modified as follows:-**

- a) amend the reference to PPG12 in Section 1 of Part 1 in accordance with FC 13.**
- b) delete the following words from section 2 of Part 1
“(d) to bring planning issues before the public.”**

- 2.1.10 **No other modification be made to the Plan in the light of objection nos. 5048, 5049 & 5051.**

2.2. SECTION 4 : PLAN CONTEXT

Objections

<i>RepNo.</i>	<i>Name</i>	<i>Rep No.</i>	<i>Name</i>
4021*	HCC Environment Department	5050	Tring Environmental Forum

Counter- Objection

To pre-inquiry change 1
5312 PC HCC Environment Department

Support for pre- inquiry changes

For pre-inquiry change 1
5246PC English Nature

Key Issues

- (a) Are the references contained within this section erroneous and insufficient to provide the necessary scope to inform policy. (5050)
- (b) Should the reference to RPG9 be revised to refer to the replacement draft RPG9 (CD24); and should guidance be provided on how the change in emphasis between the old RPG9 and new draft and recent Government policy on sustainable development has been interpreted. (5050)
- (c) Should reference be made to the Minerals and Waste Local Plans, and if so, is the rewording of the text proposed in PIC 1 sufficiently clear. (4021 5312PC)

Inspector’s Conclusions

(a) References

2.2.1. Although references to the documents that set the policy context for the Plan are expressed in fairly broad terms, I consider they are sufficient to establish the necessary background. I therefore see no need for any amendment.

(b) RPG9 and sustainable development

2.2.2. Reference to a specific version of Regional Planning Guidance (RPG) in the introductory text is of little significance in informing policy throughout the Plan. In any case the reference in sub-paragraph 2.4(b) is strictly accurate since this was the relevant guidance at the time the Plan was prepared.

2.2.3. However, the new version of RPG9 has now been adopted. In the circumstances, I consider it would be appropriate for the reference to be updated. I would therefore recommend the Council to make the necessary modification to sub-paragraph 2.4(b) of the Plan. Changes will also need to be made to the background text to explain the relevant changes from the previous RPG.

2.2.4. While I appreciate the Council’s concerns about amending the Plan to reflect fundamental changes in Regional Policy, I do not consider it would be appropriate for the Plan to proceed to adoption without regard being taken of current Regional Planning Policy. As paragraph 6.32 of PPG12 makes clear new information should wherever possible be incorporated into the Plan before it is adopted. Failure to do so is likely to make the Plan out-of-date much more quickly.

2.2.5. Providing guidance on any change in policy emphasis in respect of sustainable development, as requested by the objector, would not fit well into this section, since it

only aims to give a broad outline of the Plan’s context. However, while the Plan does take into account sustainability considerations I accept that it is not particularly explicit about their importance. I consider therefore that the Plan would be more in accordance with the aims of PPG12 if it gave greater prominence to the issue of sustainability. In my view this would be best achieved by the inclusion of a specific policy on sustainable development as recommended in paragraph 6.7.1 of this report. I see no reason, however, to modify this section of the Introduction to refer to sustainable development.

(c) Minerals and Waste Local Plans

- 2.2.6. PIC 1, which refers to the Hertfordshire Minerals and Waste Local Plans, would generally meet objection 4021. However, I agree with the objector that the inclusion of the words “and two special local plans prepared by the County Council” is unnecessary and makes the wording less precise. Minerals and Waste Local Plans form a standard part of the Development Plan for every county. I do not consider it appropriate, therefore, to refer to them as “special local plans”. Nor do I see a need to refer to the fact that the County Council produces them. I consider the objector’s wording, which in my view is much clearer, is to be preferred.

Recommendation

- 2.2.7. **Modify the Plan by:-**
 (a) **amending sub-paragraph 2.4(b) of the Plan to refer to the revised version of RPG9;**
 (b) **inserting additional background text to explain the changes in emphasis from previous Regional Planning Guidance.**
- 2.2.8. **PIC 1 be not adopted. Instead the Plan be modified by the insertion of the words “the Hertfordshire Minerals Local Plan 1991-2006 and the Hertfordshire Waste Local Plan 1995-2005 at the end of paragraph 2.7.**

2.3. SECTION 8 : USING THE PLAN

Objections

<i>Rep No.</i>	<i>Name</i>	<i>Rep No.</i>	<i>Name</i>
4929 L	English Nature	5131	Tring Environmental Forum

Key Issues

- (a) Is the implication in Section 8 that Policies 1-7 will take precedence over policies for nature conservation contrary to PPG9. (4929L)
- (b) Should the Deposit Draft explain the process for considering material considerations and the scope that this term can cover. (5131)

Inspector’s Conclusions

(a) *Policies 1 – 7 and nature conservation*

- 2.3.1 Paragraph 2.14 of the Introduction is intended to give a guide as to how the Council will interpret the Plan in exercising its development control functions. In giving precedence to Policies 1 to 7 of the Plan, it seeks to place greatest weight on the strategic policies. While I understand why the Council has adopted this approach, I am concerned that it could be argued that these policies therefore outweigh all other considerations. I do not believe this is what the Council intended.
- 2.3.2 I accept that PPG9 does not specifically state that nature conservation should take precedence in policy terms. However, it does make clear in paragraph 24 that plans should offer reasonable certainty about the weight that will be given to nature conservation interests in reaching planning decisions. I am not satisfied that paragraph 2.14 meets this expectation. In my view the paragraph fails to attach sufficient weight to the fact that in certain cases (e.g. listed buildings, conservation areas, Sites of Special Scientific Interest and Local Nature Reserves) the Council is subject to certain statutory obligations.
- 2.3.3 I see no need, however, to alter the general thrust of the paragraph. In my view all that is required is a minor amendment to the wording to place greater stress on the importance of the policies dealing with matters such as listed buildings, conservation areas, Sites of Special Scientific Interest and Local Nature Reserves.

(b) *Material considerations*

- 2.3.4 Planning law does not provide a definition, or a comprehensive list of material considerations. Moreover, the courts are constantly extending the definition of what constitutes a material consideration in planning terms. In the circumstances, any attempt by the Local Plan to adequately explain the concept of material considerations in the space of two or three introductory paragraphs is likely to be ineffective. Consequently, I do not consider it would be appropriate to modify the Plan to include an explanation of what would constitute a material consideration.

Recommendation

- 2.3.5 **Modify paragraph 2.14 as follows: -**

Delete the sentence beginning " There are expressions of importance attached to, for..." and substitute it with the following sentence:-

“However, in some instances the Council are required by statute to have regard to specific considerations, for example the preservation and/or enhancement of Conservation Areas. The Council will therefore attach significant weight to the policies which deal with such considerations (e.g. Policies 96 (Chilterns Area of Outstanding Natural Beauty), 103 (Sites of importance to nature conservation), 114 (Important archaeological remains), 115 (Development affecting listed buildings) and 116 (Development in Conservation Areas)).”

2.4. SECTION 9 : MONITORING

Objection

<i>Rep No.</i>	<i>Name</i>
5052	Tring Environmental Forum

Key Issues

- (a) Whether the monitoring framework for the Plan is insufficient and lacking in performance measures and targets. Should it include the creation and tracking of sustainability indicators. (5052).

Inspector’s Conclusions

(a) Monitoring framework

- 2.4.1 The Council proposes to monitor housing and employment land through the preparation of a twice-yearly position statement. They also intend to produce an annual or biennial general monitoring report. While I accept that the time scale for the production of these reports is reasonable, I am concerned that many of the policies of the Plan are lacking any clear performance measures.
- 2.4.2 Although the main purposes of the current review were to address the need for new housing sites and related changes to the Green Belt boundary, I do not consider this absolves the Council from the need to incorporate an appropriate monitoring framework within the Plan, including performance measures. PPG12 places considerable stress on the need to monitor policies effectively to check whether they are meeting their objectives. Paragraph 4.21 of PPG12 specifically states that Plans should have key environmental and other indicators built into them which are capable of being monitored throughout the lifetime of the Plan. Without such indicators monitoring is likely to be a largely futile exercise.
- 2.4.3 I appreciate that the inclusion of appropriate monitoring measures would be time consuming and I note the Council’s intention to undertake further work on environmental indicators prior to the next review. However, developing a satisfactory monitoring framework is in my view a fundamental part of the Development Plan process. I do not consider, therefore that it would be reasonable for the Plan to be adopted without such a framework in place. I would therefore strongly urge the Council to include within the Plan a clear set of aims, objectives and targets to provide a consistent basis on which to monitor the Plan. This should include appropriate sustainability indicators.
- 2.4.4 It would also be helpful if the monitoring procedures were specified in greater detail. This should include which indicators are to be covered, and which of those have defined targets; the timescales/frequency of monitoring; the agencies involved; how results will be published; and at which thresholds, for each indicator, a reassessment of policy will be triggered. This would be best addressed, in my view, by including a new section on monitoring and implementation.

Recommendation

- 2.4.5 The Plan be modified by:-
- (a) the inclusion of a clear set of aims, objectives and targets, including sustainability indicators, to provide a consistent basis for subsequent monitoring of the Plan;
 - (b) the insertion of a new section on monitoring and implementation outlining in more detail the monitoring procedures that will be used.

2.5. SECTION 11 : PLAN & SUPPLEMENTARY DOCUMENTS

Objection

Rep No. 5180	Name Tring Environmental Forum
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Key Issues

- (a) Does the Plan fully meet the requirements for “sustainability”. Should it include reference to the “precautionary principle”. Does the reference to “environmental sustainability” indicate an unduly restricted understanding of the concept. (5180)

Inspector’s Conclusions

(a) *Sustainability requirements*

- 2.5.1 Although this objection has been classified by the Council as relating to section 11 of part 1, it actually covers much wider considerations. Section 11 deals largely with matters of fact about the documents that make up the Plan and supplementary technical information. It is not in my view the appropriate place to address the wider issues of sustainability that are raised by the objector.
- 2.5.2 While I accept that sustainability considerations underlie many of the policies and proposals of the Plan, particularly its locational strategy, I am not satisfied the Plan gives sufficient prominence to the concept. I accept that there are varying definitions of what “sustainable development” means. However, I do not believe this is adequate justification for the unduly cautious approach that the Plan currently takes.
- 2.5.3 While sustainability should not be used as a mantra, it ought, in my view, to form a clear and fundamental basis for all the policies and proposals in the Plan. Such an approach would accord with the objectives of Chapter 4 of PPG12. In my view this would be best achieved by inserting a specific policy on sustainable development within section 1 of Part 3 of the Plan “Development Strategy”. Subject to this change and others I have recommended elsewhere in my report, I am satisfied that the Plan would fully meet the requirements for sustainability.
- 2.5.4 I appreciate that the precautionary principle is an important tenet of European policy and that it has now been included in some aspects of UK legislation. However,

although it may be relevant in respect of specific policies in the Plan, notably those covering hazardous substances, I do not consider there is a need to make a general reference to it within the Introduction to the Plan.

- 2.5.5 As paragraph 2.21 refers to the Environmental Appraisal it is understandable why the Council chose to refer to environmental sustainability at this point. I do not consider this indicates that the Council has a restricted understanding of the concept of sustainable development. However, in my view the implications of proposals ought to be assessed against the wider concept of sustainability. As paragraph 4.3 of PPG12 says progress towards sustainable development can only be made if the various objectives are considered in an holistic way. It would be better, therefore, if paragraph 2.21 referred to the principles of sustainability in general terms rather than specifically to environmental sustainability.
- 2.5.6 This objection also cross-refers to section 3 of part 2, which outlines one objective of the Plan as sustaining the development and economic prosperity of the Borough's economy. The objector regards this statement as facetious. However, PPG12 identifies the maintenance of high and stable levels of economic growth and employment as one of the four broad objectives of sustainable development. I consider that sustaining the development and economic prosperity of the Borough's economy fits within this broad objective. I see no reason therefore for this reference to be corrected.

Recommendation

- 2.5.7 **The Plan be modified by the deletion of the word “environmental” in the last line of paragraph 2.21.**

2.6 SECTION 13 : PLAN PREPARATION PROCEDURES & PROGRAMME

Objection

<i>Rep No.</i>	<i>Name</i>
5179	Tring Environmental Forum

Key Issues

- (a) Whether separate Comprehensive Settlement Appraisals (CSAs) for Berkhamsted, Hemel Hempstead and Tring should be undertaken and the Plan revised in consequence. (5179)

Inspector’s Conclusions

(a) *Comprehensive Settlement Appraisals*

- 2.6.1 Section 13 covers factual information about the plan preparation process. Comprehensive Settlement Appraisals (CSAs) are requested by the objector to identify the needs of and limits to development, facilitate public participation and enable a sustainable pattern of development within the Borough. These issues would seem to

be those addressed, as a whole, by the Local Plan and I can see no reason in making reference to CSAs in this particular section of the Plan.

- 2.6.2 I have no doubt that CSAs are a useful tool in formulating a development strategy, and would strongly urge the Council to adopt such an approach when the Plan is next reviewed. However, I am concerned that to require such appraisals to be undertaken at this stage in the plan process would lead to significant delays in the adoption of the Plan. I believe this would be detrimental to the proper planning of the Borough.
- 2.6.3 In any case many of the steps that would form part of a CSA have already been undertaken during the preparation of the current Plan. While I have no doubt that community involvement could have been improved, it is clear that the Council did consult fairly widely. I am not satisfied, therefore, that the undertaking of CSAs for Berkhamsted, Hemel Hempstead and Tring at this stage would bring such significant benefits as to warrant the delay in adoption of the Plan that would result.
- 2.6.4 Although I find no reason to modify this section in the light of objection 5179 it is clear that paragraphs 2.27 to 2.29 will have to be modified in the adopted Plan to take into account the additional procedures that have taken place since the Plan was placed on deposit.

Recommendation

- 2.6.5 **No modification be made to the Plan in the light of objection no. 5179.**
- 2.6.6 **Paragraphs 2.27 to 2.29 of the Plan be modified to reflect the additional procedures that have occurred since the Plan was placed on Deposit.**

2.7. SECTION 15 : FURTHER STUDY & POLICY WORK

Objections

<i>Rep No.</i>	<i>Name</i>	<i>Rep No</i>	<i>Name</i>
317	John Dickinson Stationery Ltd	5132	Tring Environmental Forum

Support for pre- inquiry changes

For pre-inquiry change 2	
5383PC	CPRE – The Hertfordshire Society

Key Issues

- (a) Whether the purpose and status of the planning briefs are clear. (317)
- (b) Whether further policy work should be introduced as supplementary planning guidance (SPG) and if so whether the Plan should identify the areas where SPG will be produced. (5132)

Inspector’s Conclusions

(a) *Planning Briefs*

- 2.7.1. This section of the text merely seeks to identify key areas where further work is required. The detailed requirements for development briefs are discussed more fully in the proposals schedule. I appreciate that this section of the Plan does not make entirely clear what the status of these briefs would be. However, it is clear from Policy 13 of the Plan that the Council sees them as constituting supplementary guidance. I see no need, therefore, to include any reference to the status of these briefs at this point in the Plan. Accordingly, I recommend that no modification be made to the Plan in response to objection no. 317.

(b) *Supplementary Planning Guidance*

- 2.7.2. Paragraphs 3.15 to 3.18 of PPG12 comment on the role of SPG in the planning system. This role is a well-established one and there is guidance and case law, to temper the fears of the objector, ensuring that the use of SPG does not circumvent the plan led system or introduce policies surreptitiously. PPG12 states that SPG should be supplementary to, and consistent with, policies or proposals in the development plan and clearly cross-referenced. In addition, the House of Lords case, *Great Portland Estates v City of Westminster 1984* maintained that SPG could not introduce “back door” policies. Paragraph 3.17 of PPG12 states that SPG can play a valuable role in supplementing plan policies and proposals. Identification of the likely need for the production of SPG during the plan period is a legitimate statement of fact within this section of the Plan.
- 2.7.3. Having said this I consider that leaving some matters to a later stage, such as the environmental monitoring indicators, would not be appropriate for the reasons I set out in paragraphs 2.4.1 to 2.4.3 of this report. Consequently, I do not support the second part of PIC2.
- 2.7.4. In the light of my conclusions in respect of objections 4033 and 4034 (*see section 13.1*) I agree that landscape character assessments should be included in the list of further work as proposed by FC82. I also agree that in the light of national guidance further work on energy conservation, water conservation and safety and security is necessary. I therefore endorse the first part of PIC2. However, for the reasons I have set out elsewhere in my report, I believe it is important that the adopted Plan should include general policies on energy and water conservation in order to provide an appropriate reference for any subsequent SPG.
- 2.7.5. Finally, while I can understand the reasons why the Council wants to include a further statement to cover the methods of consultation (FC14), I find the proposed wording is unacceptably vague. It therefore provides little added benefit. In the circumstances, I am not persuaded that the additional wording proposed by FC14 should be included.

Recommendation

2.7.6. **Modify section 15 of Part 1 of the Plan as follows: -**

- a) **insert reference to landscape character assessments in accordance with FC82;**
- b) **insert the words “environmental guidelines on energy conservation, water conservation and safety and security” in accordance with PIC2.**

2.7.7. **That part of PIC2, which refers to “environmental monitoring indicators” and FC14 be not adopted.**

END OF CHAPTER 2