

CHAPTER 5 – URBAN STRUCTURE

5.1. POLICY 7 : LAND USE DIVISION IN TOWNS AND LARGE VILLAGES

Objections

<i>Rep No.</i>	<i>Name</i>	<i>Rep No.</i>	<i>Name</i>
1074	Markyate Society	3743	Government Office for East of England
1232	The Chiltern Society	4259	Tring and District Residents' Association
1270*	CPRE - The Hertfordshire Society	4285	Mrs B Lea
1542	Linden Homes South-East Ltd	4317	Mrs A J Nobbs
1732	Mrs M Pugh, Mr J Hooton and Mr T Hooton	4525	John Dickinson Stationery Ltd
2845	British Waterways	4931 L*	English Nature
3020	Leverstock Green Village Association	5010 L	MSAS Global Logistics Ltd
3717	Silvermere Developments	5061	Tring Environmental Forum

Supports

491	Herts & Middlesex Wildlife Trust	1078	Tring and District Residents' Association
1065	Glaxo Wellcome plc		

Supports for pre-inquiry changes

For pre-inquiry change 13			
5247 PC	English Nature	5391 PC	CPRE – The Hertfordshire Society
For pre-inquiry change 14			
5392 PC	CPRE – The Hertfordshire Society		

Key Issues

General

- (a) Should the Policy contain a reference to the Proposals Map under each type of area. (4259)
- (b) Is the Proposals Map out of date, especially in respect of Tring. (4285)
- (c) Whether a further category, mixed use zones, should be included in the Policy.(4525)

Residential areas

- (d) Whether clause (i), which encourages appropriate residential development, would lead to unacceptable town cramming in Tring. (4259, 4285)
- (e) Whether clause (ii), which normally accepts changes of use to residential in residential areas, would result in an unacceptable loss of local shops or schools/school playing fields. (4259, 4285)
- (f) Should compatible small-scale employment development be allowed in residential areas. (1232, 1270)
- (g) Whether land at Lock Field, Northchurch (Proposal H53) should be included within the settlement boundary for Berkhamsted. (1542)

Employment areas

- (h) Should the Policy be amended to qualify the type of employment use permissible in particular areas. (5061)
- (i) Whether the term “appropriate employment generating development” should embrace proposals which are required to secure the efficient and economic operation of existing businesses. (5010L)
- (j) Should warehousing (B8 uses) be restricted in order that the release of employment land can provide the greatest number of jobs. (5061)

(k) Whether more employment land should be reallocated for housing. Whether mixed use developments should be allowed in residential and general employment areas (3020).

(l) Do additional employment areas need to be identified at Tring. (3717)

Town Centres and Local Centres

(m) Should the Policy be amended to encourage the reuse of empty flats or offices to provide low-cost housing accommodation.(4317)

(n) Is there a conflict between Policy 7 and Policy 33 in respect of the encouragement of small firms in town and local centres. (4317)

Open Land Areas

(o) Whether clause (ii) under Open Land should be amended so that uses meeting any one of the purposes listed would be encouraged. (4931L)

(p) Is open water appropriate within Open Land or not. (5061)

(q) Does clause (iv) under Open Land preclude the possibility of enforcement action or compulsory (or negotiated) purchase against existing uses. (2845, 3743)

(r) Should clause (v) on Open Land be amended to refer to alternative technical options. (5061)

(s) Does the lack of designated Open Land at Markyate warrant amending Policy 7. (1074)

(t) Whether land at Miswell Lane, Tring should be classified as Open Land under Policy 7.(1732)

Inspector's Conclusions

General

(a) *Linking Policy 7 with the Proposals Map*

5.1.1. The policy clearly states that the divisions between the 4 types of land use are shown on the Proposals Maps. In the circumstances, I am satisfied that it should be sufficiently obvious to anyone reading the Plan that the clauses relating to each type of land use are intended to refer to the areas as defined on the Proposals Map. The inclusion of a further reference to the Proposals Map after each type of area would be unduly repetitive and, in my opinion, unnecessary.

(b) *Accuracy of the Proposals Map*

5.1.2. I have already dealt with similar objections in Chapter 1 of my report. I accept that the plans on which the Proposals Maps are based are out of date. I note the Council intends to use a more up to date base plan when they bring the Plan forward for adoption. Since it is important that the Plan is as accurate as possible I endorse the Council's approach. I, therefore, recommend that they use the most up to date base plan for the adopted version of the Local Plan.

(c) *Mixed use zones*

5.1.3. Government policy specifically encourages mixed use developments in certain locations, especially town centres. Such schemes can often be the most sustainable

form of development on a site. In addition, as paragraph 5.6 of RPG9 points out mixing different land uses can serve to strengthen social integration and civic life. In the circumstances, I can understand the objector's support for this type of use on the John Dickinson site. It would appear from the permission that has been granted that the Council also supports this approach in principle.

- 5.1.4. Policy 7 already identifies that each area will contain a mix of uses. In particular, it encourages the mix of uses in town and local centres. It therefore recognises the importance of mixed use areas. However, while it states that subordinate uses will be acceptable in other areas and seeks to protect such uses, it gives little encouragement for the introduction of new mixed use developments outside town and local centres.
- 5.1.5. I accept that the policy is intended to be general in nature, setting out the broad character of parts of the towns and villages, and that it seeks to balance development and protection of the environment. However, I have some reservations about the division of the urban areas of the Borough by predominant land use. In my view such an approach could result in a lack of flexibility, particularly towards developments which do not fit comfortably within any of the specified land use categories. While I accept that the broad thrust of Policy 7 is in line with Structure Plan policy, I consider that its format introduces a far greater degree of rigidity than is present in the SPR. I am also concerned that it could conflict with the current thrust of national policy, which seeks to encourage the mixing of land uses throughout cities or towns, including in the suburbs.
- 5.1.6. Since mixed use developments are likely to take place on sites which are scattered across the Borough, I do not consider that it would be appropriate to seek to identify them through the inclusion of a further category heading under Policy 7. However, in the light of current government policy, I believe Policy 7 should give greater support to new mixed use developments in areas outside town and local centres. In particular it should encourage such development where it would constitute the most sustainable form of development of a site and would cause no harm to the amenity of local residents or the area in general. In my view this would be best addressed by inserting an additional clause at the end of the Policy under the section on mixed uses. I, therefore, recommend that Policy 7 should be modified by the insertion of an additional clause supporting appropriate new mixed use developments.

Residential Areas

(d) *The impact of encouraging residential development on Tring*

- 5.1.7. I have already addressed the issue of the capacity of Tring to accept additional development under Policy 1 (*see section 4.6*). While I understand the concerns of the objectors in respect of the scope for further infilling in Tring I am not satisfied that Policy 7 will inevitably lead to town cramming, particularly in the light of the changes I have recommended to the background text to Policy 1.
- 5.1.8. I note the objectors' desire to see a specified limit for the amount of infilling in Tring. However, in the absence of a detailed capacity study it would be difficult to accurately assess what a suitable limit might be. I do not believe therefore that it would be appropriate to seek to include such a limit within the Plan at this stage. However, as I have recommended earlier in my report I consider the Council should carry out a

Comprehensive Settlement Appraisal of Tring at an early stage following the adoption of the current Plan.

- 5.1.9. The alternative suggestion of identifying the specific areas of Tring where infilling would be acceptable would not, in my opinion, be a sensible way forward. I consider that it would introduce an excessive level of detail into the Plan. Paragraph 3.14 of PPG12 (CD10) says this should be avoided.
- 5.1.10. I appreciate that Policy 7 gives no indication as to what would constitute “appropriate” residential development. However, the Plan has to be read as a whole. I am satisfied that together with other policies in the Plan there are sufficient safeguards to prevent inappropriate residential development. The fact that Policy 7 effectively forms the front door to the Plan is not, in itself, sufficient reason for modifying it. The policy is clearly intended to form a broad framework for the other policies. Amending it in order to give greater definition to what would constitute acceptable residential development would, in my view, merely add to the length of the policy without significantly improving it.
- 5.1.11. In reaching these conclusions, I have taken account of the objectors’ concerns about the density of development in certain parts of Tring and the consequent parking problems that arise. However, while I accept that the scope for further infilling within Tring is limited, particularly on the western side of the town, I am not persuaded that Policy 7 will result in significant pressure for further development. Other policies within the Plan, particularly Policy 9, would give the Council ample scope to reject unsuitable development which would exacerbate the existing problems of parking congestion and the limited capacity of existing services.
- 5.1.12. I appreciate the concerns raised about the impact of charges for public car parking in Tring but in my view this is not relevant to Policy 7. I therefore make no comment on this issue. I deal with the other concerns raised about issues of density, Housing Proposal Site H35, the Policy 33 sites at Akeman Street, Brook Street and Western Road, Employment Proposal Site E8 and Leisure Proposal Sites L4 and L5 elsewhere in the Plan.¹

(e) Residential changes of use and the loss of shops and playing fields

- 5.1.13. The Council points out that Policy 7 accepts that all of the different areas of land use it defines also contain other uses. In general terms the Policy does not seek to remove these existing uses. The only exception to this is existing incompatible lawful uses within open land areas where these cause harm to the proper planning of the area, which is proposed under FC28. I see no reason therefore why Policy 7 should lead to the loss of shops and playing fields, as the objectors appear to fear.
- 5.1.14. In any case the Plan has to be read as a whole. Policies 46, 70, 76 and 110 together seek to prevent the loss of local corner shops and both private and public playing fields. Other policies in the Plan address the loss of other uses. I am satisfied,

¹ In respect of housing densities see paragraphs 7.9.5 to 7.9.11 of the Report re Policy 22. For Housing Proposal Site H35 see paragraphs 7.34.1 to 7.34.22. For the Policy 33 sites see paragraph 8.7.18. For Employment Proposal Site E8 see paragraphs 8.18.1 to 8.18.10 and for Leisure Proposal Sites L4 and L5 see paragraphs 12.26.2 to 12.26.9 and paragraphs 12.27.1 to 12.27.6 respectively.

therefore, that the Plan does contain sufficient safeguards to prevent the loss of uses whose retention is important to maintaining a healthy and sustainable community.

- 5.1.15. I appreciate that in stating that a change of use to residential is “normally” acceptable, clause (ii) gives a high degree of priority to residential uses. However, I do not consider that this is inappropriate within predominantly residential areas. It does not mean that residential use will always be acceptable. The other policies of the Plan, in my view, give clear guidance as to when a residential change of use would not be acceptable. I do not consider, therefore, that there is any need to amend clause (ii) of Policy 7 in order to address this issue.
- 5.1.16. Having said this I am concerned about the definition of a reasonable walking distance to local shops, in paragraph 9.28 of the Composite Plan. While 800m might be a suitable distance in larger urban areas or for local centres, I have some doubts whether it is applicable to individual shops, particularly in smaller towns like Tring or in large villages. My view is strengthened by the definition of a reasonable walking distance in PPG6 as 300 metres. I appreciate that this distance is given within a different context, but it suggests that the maximum walking distance in paragraph 9.28 is on the high side. I would, therefore, suggest that the Council look at this figure again.

(f) Employment uses

- 5.1.17. It is clear from the Use Classes Order 1987 (UCO) that the government accepts that business uses are not necessarily incompatible with residential areas. The Council maintains that Policy 7 only seeks to resist incompatible uses in residential areas and that compatible uses will be acceptable. However, the only compatible form of development that is specifically referred to as being acceptable is for small-scale social community and leisure purposes. This gives the impression that other compatible uses, particularly business uses, will be discouraged within residential areas.
- 5.1.18. While I accept that major employment activities that produce significant noise and traffic should be kept separate from residential areas, small-scale business uses can be compatible with residential uses. Indeed, the provision of some employment within residential areas can reduce the need to travel, which can help to create a more sustainable urban framework. It can also improve the viability of smaller settlements. In my view, therefore, Policy 7 needs to make clearer that compatible business uses will be acceptable within residential areas.
- 5.1.19. I appreciate that when the previous Inspector considered this issue in 1992 he reached a different conclusion (*see paragraph 2.62 of CD37*). However, national policy has moved on since then. In the light of the government’s increasing support for small firms and its encouragement for the introduction of mixed uses within residential areas I consider that a more positive statement is needed.
- 5.1.20. I do not accept, however, that there is any need to refer to such detailed matters as appearance, noise, and lighting within Policy 7, as suggested by the CPRE. These are, in my view, already effectively dealt with under other policies of the Plan. In any case a business use which gave rise to such undesirable factors would not, in my opinion, be compatible with a residential area. I recommend therefore that in response to

objections 1232 and 1270 clause (iii) be modified to refer to compatible business uses being acceptable as well.

(g) *Land at Lock Field, Northchurch*

- 5.1.21. As I have already indicated earlier in my report I do not consider that the urban boundary of Berkhamsted should be extended to include the land at Lock Field. In my view, this land should not be developed for housing during the current Plan period for the reasons I state in section 7.46 of my report. Neither, in my opinion, should it be retained as a reserve site.
- 5.1.22. Even if it is retained as a phase III housing site, I am not satisfied this is sufficient to warrant amending the urban boundary at this stage. Since the land constitutes a “greenfield” site and is designated as an area of restraint, there can be no certainty that it will ever be developed. In the light of the advice in PPG3(CD3A) and the sequential test for housing development, I believe it would be premature to alter the boundary of Berkhamsted at this stage. I recommend that FC15 should not be proceeded with.

Employment Areas

(h) *Should the type of employment use be restricted in certain areas?*

- 5.1.23. The impact of different types of employment development on sensitive locations such as residential areas, schools and hospitals is an important issue. However Policy 7 is only intended to provide a broad framework and needs to be read in the context of the other policies of the Plan.
- 5.1.24. Policy 7 makes clear that only “appropriate” employment generating development will be encouraged in General Employment Areas. In assessing the nature of employment development proposals within such areas Policy 31 states that the character of adjoining areas will be taken into account. In addition, Policy 9 stipulates that development will not be permitted unless it avoids harm to the surrounding neighbourhood and adjoining properties through, for example, visual intrusion, loss of privacy, general noise and disturbance. Consequently, I consider that, read together, the policies of the Plan do provide a sufficient safeguard for adjoining residential areas, schools and other sensitive uses. I find no reason, therefore, to modify Policy 7 in order to qualify the types of employment development that will be acceptable in such locations.

(i) *Economic efficiency of existing businesses*

- 5.1.25. While the efficient economic operation of existing businesses is important to sustaining the economic prosperity of the Borough, I do not consider that the current wording of Policy 7 in any way detracts from this objective. The appropriateness of any employment generating development will be assessed against the criteria in Policy 31, which I note the objector supports. I see no need therefore for any modification to be made to Policy 7 in the light of objection 5010L.

(j) *Restriction of B8 uses*

- 5.1.26. I appreciate that B8 uses, particularly warehousing, often employ fewer people than other forms of employment development. However, such uses can be crucial to the continuing prosperity of many businesses. I consider, therefore, that it would be inappropriate to restrict such uses unless there were clear reasons for doing so.
- 5.1.27. Even if there were reasons for restricting such uses in certain areas, I do not believe Policy 7 is the appropriate location to address this. In my view it would be more sensible for this matter to be dealt with under the employment policies in section 5 of Part 3 of the Plan. I therefore recommend that no modification be made to Policy 7 in response to this part of objection 5061.

(k) *Re-allocation of employment land for housing and mixed uses*

- 5.1.28. PPG3 makes clear that priority should be given to using previously developed land within the urban area for new housing. In the light of this, I accept that the objector is right to place significant weight on the need to critically examine the availability of such sites, including existing employment areas.
- 5.1.29. Although the Council did not carry out a full urban capacity study before the Plan was placed on deposit, it is clear that they did investigate in some detail the opportunities for re-developing existing employment sites for housing. Indeed many of the housing sites allocated in the Plan are on ex-employment land (e.g. Former Agro-Evo site, Berkhamsted [H8] and John Dickinson site [TWA3]). They have also identified a number of employment sites under Policy 33 that have potential for housing development during the Plan period. In my view, therefore, they have been reasonably rigorous in seeking out employment land that could be reused for housing. Indeed I consider that in some instances they have been somewhat over zealous in this regard and have put forward sites which have little chance of coming forward for redevelopment during the Plan period.
- 5.1.30. I note the objector's suggestion that the Council has overlooked a number of employment sites that have been vacant for some time. However, they have given little detailed information as to the location of these sites or the time they have been vacant. The sites mentioned at the Inquiry have almost all been allocated for housing, either on their own or as part of a mixed use scheme. I appreciate that there are some vacancies on the Maylands Avenue Estate. However, it is clear that there is a constant turnover of firms on this estate. The amount of vacant land at any particular moment in time is not a good indication of the level of employment land that may be required over the Plan period in order to maintain the economic prosperity of the area.
- 5.1.31. While I sympathise with the objector's desire to minimise the use of Green Belt land around Hemel Hempstead for housing, particularly at Leverstock Green, this needs to be carefully balanced against the need for employment land. The development strategy for an area will only be sustainable where proper consideration is given to all of the elements of sustainability, including economic prosperity. As I have identified in Chapter 8 of my report there is a continuing need for a supply of employment land if the economy of the Borough is to be sustained. The failure to provide sufficient land for economic development is likely to lead to pressure for such development to take

place on the Green Belt. In my view an unduly aggressive approach to the re-use of employment land for housing could therefore have an equally, if not more, damaging impact on the Green Belt than the housing strategy proposed in the Plan.

- 5.1.32. I appreciate that changes are occurring in the pattern of economic activity in the Borough and accept that there may be a need for some modifications to the overall strategy. However, based on the evidence currently available to me, I consider that in general terms the Council has got the balance between housing and employment land about right. I find no reason therefore to modify the Plan to encourage a more aggressive approach to the reuse of employment land for housing as suggested by objection 3020. Even if I did, I do not believe it would be necessary to make any changes to the wording of Policy 7 to accommodate this.
- 5.1.33. I have already addressed the second part of this objection, which relates to the introduction of mixed uses into residential and employment areas, under issue (d). I am satisfied that the modification I have suggested in paragraph 5.1.58 above would meet this part of the objection.

(l) Employment Areas in Tring

- 5.1.34. The Council now accepts that the amount of employment land in Tring originally identified under Policy 33 as suitable for redevelopment for housing was excessive. They therefore propose to delete the sites at Akeman Street and Brook Street, Tring from Policy 33 (PIC 68 & 69) and instead include them as general employment areas under Policy 31 (PIC 65 & 66). For the reasons I give in Chapter 8 of my report I support these changes.
- 5.1.35. This will effectively mean that the only remaining employment site in Tring that is identified as having potential for redevelopment for housing is the one at Western Road. As I have already indicated earlier in my report I consider only part of this site is likely to come forward for housing during the Plan period. I am satisfied that the resulting loss of employment land will be more than offset by the land allocated at Miswell Lane (E8).
- 5.1.36. While I appreciate that there is a significant level of out-commuting in Tring, I am not convinced that this would be significantly reduced by the allocation of more employment land on the outskirts of the town, since existing employment patterns are well established.
- 5.1.37. More importantly, I consider the use of the land at Dunsley and Cow Lane Farms for employment purposes would lead to a serious encroachment into the countryside and a significant loss of openness. This would be directly contrary to the purposes of the Green Belt. I am not persuaded that the need for additional employment land in Tring is of such significance as to justify allocating Green Belt land for employment purposes. I therefore recommend no modification be made to the Plan in respect of objection 3717.

Town and Local Centres

(m) Reuse of vacant property for low-cost housing

- 5.1.38. I have no doubt that vacant space above shops and unused offices can provide an important source of new housing in town and local centres. Indeed, the Town Centre strategies for Berkhamsted and Tring, which are contained within Part 4 of the Plan, recognise this potential. Moreover, Policy 33 specifically encourages new housing development on land in towns that contains established employment uses, where the land lies outside General Employment Areas or Employment Proposal Sites. In my view, this would apply equally to existing employment uses within town centres.
- 5.1.39. Town centres would be a particularly sustainable location for low-cost housing due to the ready availability of public transport and other services and facilities. However, Policy 7 would not prevent vacant properties from coming forward for such a use. Indeed, the Policy recognises that housing constitutes an important element of the mix of uses that are appropriate in town centres.
- 5.1.40. I appreciate the objector's view that low-cost housing should be the first priority but in my opinion the mix of uses in town centres needs to be carefully balanced if the centre is to retain its vitality and viability. I do not consider, therefore, that it would be appropriate for Policy 7 to be modified to give greater priority to the provision of low-cost housing in town centres. I, therefore, recommend no modification be made to Policy 7 in the light of this part of objection 4317.
- 5.1.41. However, while I note the Council's contention that the Plan as a whole encourages the reuse of vacant buildings I am concerned that specific encouragement for the reuse of such buildings in town centres, particularly for housing, appears to be limited to Berkhamsted (Policy BTC3) and Tring. There is no reference to this issue within the town centre strategy for Hemel Hempstead, which is the biggest urban area in the Borough. In my view this is an unfortunate oversight.
- 5.1.42. While I appreciate that there may be less vacant property within Hemel Hempstead town centre due to its greater economic vitality, there can be no guarantee that this situation will continue throughout the Plan period. In the light of the advice in PPG3 I believe it will be increasingly important for the Council to adopt a more proactive strategy to bringing back vacant properties into reuse, especially empty space above shops. I, therefore, recommend that the Hemel Hempstead Town Centre Strategy should be modified to make clear that the Council will support the reuse of vacant property, including empty space above shops, for housing.

(n) Conflict between Policy 7 and Policy 33

- 5.1.43. The objector suggests that there is a conflict between Policy 7 and Policy 33 as the former encourages small firms in town and local centres while the latter encourages the redevelopment of established employment sites for new housing. I agree with the objector that service and manufacturing industries are vital to maintain a healthy local economy. It is essential therefore not only to encourage small firms to set up within town centres but also to provide a range of suitable employment land to enable new firms to start up. In my view, it is crucial that a proper balance is achieved between

the need to make the best use of previously developed land within urban areas for housing and the need to sustain the economic vitality.

- 5.1.44. I am concerned that the Council, in their understandable desire to minimise the use of “greenfield” land for housing, has sought to put forward many of the smaller existing employment sites for reuse. In my opinion, smaller employment sites can be equally important to the continuing economic health of the area. They are often of particular relevance to small firms who may not be able to afford the rentals that can be charged on the larger established estates. I find therefore that the identification of such a large number of small employment sites outside General Employment Areas for housing under Policy 33 is in conflict with the objectives of Policy 7 which seeks to encourage small firms and business.
- 5.1.45. In my view the loss of all these sites to housing could cause significant harm to the continued economic vitality of the area, particularly in Hemel Hempstead. I am not satisfied, therefore, that the Plan achieves the correct balance between the need to make best use of urban land and the need to support the economic health of the Borough. In view of this I have recommended that a number of the employment areas identified as potential housing sites under Policy 33 be deleted and that others be reviewed. I am satisfied that these changes will go some way to meeting the objector’s concerns and would significantly reduce the conflict between Policies 7 and 33.

Open land areas

(o) *Clause (ii) uses*

- 5.1.46. It makes sense for the Plan to encourage uses that are open in character on open land where they serve one or more of the 3 purposes listed in clause (ii). However, as clause (ii) is currently written it would appear that a use would have to serve all 3 purposes to be permitted. The Council accepts that this is excessive. They therefore propose under PIC13 to amend the wording by deleting the word “and” and substituting the word “or”. Since this would help to clarify what is meant and would meet the objection I support the proposed change.
- 5.1.47. In addition, in the light of my conclusions in section 13.16 in response to objection 3091 I consider that reference should also be made to open uses which serve social or community purposes. I therefore recommend that the Plan be modified accordingly.

(p) *Open water*

- 5.1.48. Since most water bodies are physically open and they can often form visually important breaks in the urban fabric, it is reasonable for them to be included within the open land areas identified by Policy 7. However, in the absence of any other policy dealing with open water, I am concerned that the lack of any qualification in clause (iii) could give rise to problems in the future. In particular, it could make it difficult for the Council to resist unsuitable proposals for new water bodies on open land.
- 5.1.49. In my view reference to open water in Policy 7 is not essential. I note there is no such reference in Policy 46 of the SPR. I consider, therefore, that the most sensible option would be to omit the reference. Accordingly, I recommend that clause (iii) be deleted.

(q) Clause (iv) and enforcement action

- 5.1.50. As originally worded clause (iv) would have permitted both lawful and unlawful existing uses to remain in open land areas. This would have restricted the Council's power to take enforcement action against unauthorised uses. Clearly this would not be appropriate. I therefore support PIC14, which seeks to restrict the retention of incompatible uses to those that are lawful.
- 5.1.51. However, even this change would still be too open-ended, in my view. There may be times when the Council will wish to seek the removal of a lawful incompatible use because it is causing serious harm to the area. The Council's proposed further change (FC28) would address this. In my view, it would meet the objections. Accordingly I recommend that the Plan be modified in accordance with PIC14 and FC28 in response to objections 2845 and 3743.

(r) Clause (v) and the use of other technical options

- 5.1.52. I am satisfied that the incorporation of the word "essential" in this clause means that open land could only be used for utility services if no other more suitable technical option existed. I see no need, therefore for clause (v) to be modified to refer to the use of other technical options. In consequence I recommend no modification be made to clause (v) in the light of this objection.

(s) Open Land at Markyate

- 5.1.53. Although the Plan does not designate any open land within Markyate there is a large recreation ground adjoining the village. However, this is located at the northern end of the settlement. It, therefore, provides a limited amenity for those living in the southern part of the village. Within this area of the village the only large area of public open space is the land known as Peggy's Field, which lies to the rear of Pickford Road, Cleveland Road, George Street, Sursham Court and Farrer Top. The Plan designates this land for housing (H56).
- 5.1.54. Although this land is not readily visible from within the settlement, in the absence of any other significant area of publicly owned open land in the vicinity, I consider it forms an important recreational resource for the residents of south Markyate. I appreciate that it is only intended to develop part of the land but I consider this would still result in an unacceptable loss of open land. There seems little prospect of other land being available to replace this. I appreciate that there are a number of footpaths in the area giving easy access to the countryside. However, the recent foot and mouth epidemic has shown that these may not always be available. This reinforces my view that the land constitutes an important recreational resource that ought to be retained.
- 5.1.55. In any case it seems unlikely that Peggy's Field will actually be available for development during the Plan period for the reasons I set out in section 7.49 of my report. Taking all these factors into account I believe it would be more appropriate for this land to be designated as open land under Policy 7. This will not only meet the objection but should also help to address the perceived shortfall in open land within the village. I, therefore, recommend that the land at Peggy's Field be designated as open land on the Proposals Map.

(t) Land at Miswell Lane, Tring

- 5.1.56. Since the Plan designates this land as open space under Proposal L5 and the objectors have submitted a separate objection seeking its allocation as a housing site I have dealt with the objections to the designation of this land in more detail under the housing and leisure chapters of my report. For the reasons I set out in those chapters I do not support the use of this land for housing and consider that it should continue to be designated as open space. Accordingly I recommend no modification be made to the Plan in the light of objection 1732.

(u) Other matters

- 5.1.57. In addition to the matters raised by objectors I note that clause (vi) of the section of the policy which deals with open land areas refers to ancillary buildings and works being guided and controlled through the criteria in Policy 105. This is clearly an error since Policy 105 of the Plan relates to Landscape and Nature Conservation Management. It would appear that the intention was to refer to Policy 110, which addresses Open Land in Towns and Large Villages. I recommend, therefore, that the wording of Policy 7 should be amended to include the correct reference in accordance with the Council's errata list included in CD51E.

Recommendation

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

- (a) insert a clause at the end of Policy 7 to express support for the sustainable mixed use of sites along the following lines:-**
 - “(iii) new mixed use developments will be supported in town and local centres, and also in residential and employment areas where they would constitute the most sustainable form of development and would not conflict with other policies of the Plan.”**
- (b) amend clause (iii) under “In residential areas” of Policy 7 to read:-**
“compatible non-residential development for small-scale social, community, leisure and business purposes is acceptable.”
- (c) the Hemel Hempstead Town Centre Strategy be amended to indicate that the Council will support the use of vacant properties, including space above shops, to provide housing;**
- (d) alter clause (ii) under “In open land areas” of Policy 7 in accordance with PIC13 and by the insertion of the words “,social, community” between the words ‘leisure’ and ‘or’;**
- (e) delete clause (iii); under “In open land areas” of Policy 7**
- (f) change clause (iv) under “In open land areas” of Policy 7 in accordance with PIC14 and FC28;**
- (g) alter clause (vi) under “ In open land areas” of Policy 7 to refer to Policy 110 instead of Policy 105;**
- (h) amend the Proposals Map to show Land to the rear of Pickford Road (H56) as an open land area under Policy 7.**

5.1.59. **FC15 be not adopted.**

5.1.60. **The Council reconsiders the maximum walking distance to local shops specified in paragraph 9.28 of the Plan.**

5.2. POLICY 8 : OPTIMISING THE USE OF URBAN LAND

Objections

<i>Rep No.</i>	<i>Name</i>	<i>Rep No.</i>	<i>Name</i>
419	Railtrack Property (Town Planning),	4526	John Dickinson Stationery Ltd
1150	Herts & Middlesex Wildlife Trust	4932 L	English Nature
1902	Hemel Hempstead Team Parish PCC	5011 L	MSAS Global Logistics Ltd
3829	Old Road Securities plc	5062	Tring Environmental Forum
4171	English Partnerships	5797	Countryside Agency

Supports

1271	CPRE – The Hertfordshire Society	1852	Countryside Agency
------	----------------------------------	------	--------------------

Key Issues

General

- (a) Should the Policy be worded more positively. (3829)
- (b) Whether the Policy should refer to land being brought into uses which are appropriate under Policy 7. (4526)
- (c) Whether the Policy needs to recognise the value of vacant or undeveloped land for its landscape or wildlife interest and the local amenity benefit it may provide.(1150, 5797)
- (d) Should the policy encourage as much housing as possible within urban areas. (1902)

First two paragraphs

- (e) Would the first paragraph of the Policy encourage inappropriate development on open space and green corridors. (4932L)
- (f) Whether underused land should be referred to in the first paragraph of the Policy and thus targeted for greater use. (5011L)
- (g) Does the Policy extend beyond land use planning and development control issues, and should the first two paragraphs therefore be deleted. (4171)

Principles to judge development proposals by

Clauses (a)-(c)

- (h) Should clause (a) of the Policy be reworded. (3829) Will it obstruct or delay the firm plans of existing employers.(5011L)
- (i) Whether achieving maximum appropriate density as required by clause (b) would be incompatible with commercial objectives and whether density should be limited to that of the surrounding area. (4171, 5011L)
- (j) Does clause (c) require further explanation or would it be better to delete it. (3829, 4171, 4526)

Principles to judge Development Proposals by
Suggested additional clauses

- (k) Whether the Policy should include an additional principle on proximity to railway stations and public transport by which to judge development proposals. (419)
- (l) Should the principles refer to the need for development proposals to commence and be satisfactorily completed within a reasonable time period. (5062)

Clauses (i) to (iv) concerning additional criteria for building development

- (m) Whether clause (ii), which refers to the sharing off-street parking facilities, should be deleted. (4171)
- (n) Should clause (iv) be deleted. (3829)

Clauses (i) to (iii) concerning phased development

- (o) Whether clauses (i) & (ii) should be combined. (3829)
- (p) Does clause (iii) need to be reworded. (3829)

Inspector's Conclusions

General

(a) Positive wording

- 5.2.1. Development Plans - A Good Practice Guide 1992, which is referred to in paragraph 3.13 of PPG 12 (CD10), states that generally policies should be positively framed with the exceptions clearly stated. However, this is not a hard and fast rule. There may be occasions when a policy would actually have greater clarity if it were worded negatively.
- 5.2.2. In my view this does not apply to Policy 8. The negatively worded clauses in the middle of the policy do not sit well with the overall objective of the policy, which is to encourage the optimum use of land. In the circumstances, I consider that the policy would be improved if it was rephrased more positively and I recommend that it be modified accordingly in response to objection 3829.
- 5.2.3. However, I see no need for the removal of the phrase “through new building, conversion, adaptation or other alteration” from the first paragraph of the policy, as suggested by the objector. To my mind this phrase merely seeks to elucidate some of the various available options for bringing land and buildings back into optimum use. While the phrase is probably not essential, I am not satisfied the policy would read better without it.

(b) Link to Policy 7

- 5.2.4. I am not sure that the reference to Policy 7 actually serves much purpose. As Policy 7 is a broad framework policy, which seeks to divide the built up areas by predominant land use, I do not find it to be particularly helpful in defining what is meant by “appropriate uses” in Policy 8. Nor in my view does it help the reader to understand the Plan's approach. Although I accept that its deletion would not significantly alter the way that a development proposal would be considered, I believe the policy would

be clearer without it. It would also help to introduce a greater degree of flexibility, which in my view is essential if the policies are to remain responsive to changing development patterns throughout the Plan period. I therefore recommend that the reference to Policy 7 be deleted in the light of objection 4526.

(c) *Landscape/wildlife interest of vacant land*

- 5.2.5. Vacant or underused land within urban areas can often have significant interest in wildlife terms. It can also have considerable landscape potential. However, the fact that Policy 8 makes no reference to these issues, does not mean that such matters will be overlooked. Optimising the use of urban land does not mean that all land should be built on. As the Council says, the creation of a nature reserve could be an appropriate use, within the meaning of Policy 8, in some circumstances. Moreover, other policies in the Plan, notably Policies 9 and 103, provide strong safeguards that should protect the wildlife and landscape value of undeveloped land. Consequently, I see no need for Policy 8 to be modified in the light of these objections.

(d) *Encouraging housing in urban areas*

- 5.2.6. I fully understand the objector's concerns about the impact of the Plan's housing strategy on the Green Belt around Hemel Hempstead. However, as I have previously stated the competing demands for land use during the Plan period need to be carefully balanced. In my view, the Council has got this balance about right. I am not convinced from the evidence that I have heard and read that changes to Policy 8 are likely to significantly alter the extent of Green Belt land that is likely to be required for development up to 2011.
- 5.2.7. Policy 8 will play an important role in encouraging the maximum use of urban land. In my opinion, the aims of the policy entirely accord with national advice. However, while PPG3 places considerable stress on the sequential test for housing, this is not the only use for which a sequential test is applicable, nor is it the only use that needs to be accommodated within existing urban areas. As I have already said in paragraph xx of my report, there is a danger that in seeking to use more employment land for housing one may ultimately end up having to provide new employment sites on Green Belt land around the town in order to meet employment needs. I am not persuaded, therefore, that it would be appropriate to give greater priority to encouraging the use of urban areas for housing. I therefore recommend no change be made to Policy 8 in the light of objection 1902.

First two paragraphs

(e) *Development of open space and green corridors*

- 5.2.8. By choosing to refer to "undeveloped or unused land or buildings" in its first paragraph, I believe that Policy 8 could be perceived as seeking to encourage the utilisation of green spaces and other similar undeveloped land within the urban area. As such it could be seen to be in conflict with Policy 110 of the Plan, which seeks to safeguard strategic areas of open space within the urban framework.
- 5.2.9. Although PPG3 places significant stress on the need to maintain higher densities in new housing development and make best use of existing land, national policy in the

new PPG17 continues to acknowledge the important role played by amenity open space. In addition, government advice stresses the need to avoid town-cramming. It is clearly accepted therefore that there will be a continuing need to retain open undeveloped space within our towns.

- 5.2.10. I appreciate that the Council considers that open land could be one of the appropriate uses referred to in the first paragraphs of Policy 8. Nevertheless I consider the reference to “undeveloped and unused” land places greater emphasis on open space and other similar undeveloped land rather than on the “brownfield” sites which government policy seeks to give greatest priority to. In my view, therefore, it would make more sense for the first paragraph to refer to ‘previously developed, vacant or underused land’ and I recommend Policy 8 be modified accordingly in response to objection 4932L.
- 5.2.11. In reaching this conclusion I have taken into account the Council’s concerns about the definition of “underused” land. However, I do not consider that this should present a serious difficulty. The word is used on at least two occasions within PPG3 (CD3A) [paragraphs 24 & 43] as well as appearing in paragraph 21 of PPG4 (CD4). In my view it should be relatively clear to most people whether or not optimum use is being made of a particular site. Since PPG3 envisages that wherever possible a co-operative approach should be adopted, disagreement over whether or not land is underused is unlikely to occur on a frequent basis.
- 5.2.12. I note the suggestion that landowners cannot be forced to make greater use of their land. However, PPG3 places considerable emphasis on the use of compulsory purchase powers where the optimum use of land cannot be achieved by negotiated agreement. I am satisfied that the government intends to support Local Planning Authorities in the full use of such powers to ensure that landowners do not unreasonably obstruct the process of making best use of existing urban land.

(f) Targeting underused land

- 5.2.13. For the reasons I have already given in paragraphs 5.2.7 to 5.2.11 above, I believe Policy 8 should give greater emphasis to bringing previously developed, vacant or underused land back into full use. I am satisfied that the modification I have recommended in paragraph 5.2.9 would meet objection 5011L.

(g) Beyond land use planning and development control?

- 5.2.14. I do not accept that Policy 8 extends beyond the realm of land use planning and development control. National policy places increasing emphasis on the need to make optimum use of existing urban land in order to achieve a more sustainable pattern of development. It also stresses the need for a co-ordinated approach to the development of Local Authorities’ strategic planning. In the circumstances, the land use policies of the Local Plan need to be clearly linked to the Council’s wider policy strategy. In my view Policy 8 fully accords with this objective.
- 5.2.15. Although I appreciate that the Council could not force a landowner to make more effective use of his or her land they do have the power to use compulsory purchase where a landowner is unreasonably refusing to make optimum use of land within the urban area. It is clear that the government is giving greater encouragement to Local Planning Authorities to use these powers to meet the objectives of national policy.

Indeed the current review of the compulsory purchase procedure may ultimately lead to the whole process being made easier. In these circumstances, I am satisfied that the Council will have the power to ensure that urban land is used effectively. I see no need to modify Policy 8 in response to this element of objection 4171.

Clauses (a) to (c)

(h) *The impact and clarity of clause (a)*

- 5.2.16. The original changes recommended to this clause by the objector were fairly radical. However, it appears from their subsequent statement (O/3829/1) that they now largely accept the wording of clause (a). The only difference between their suggested wording and the Council's is that the words "a comprehensive view" would be substituted with the word "account".
- 5.2.17. This would involve a fairly modest change. Nevertheless, I believe it would reduce the onus on the developer to undertake a full examination of other potential development opportunities. Since national policy seeks to make optimum use of urban land, I believe it is important that developers can demonstrate that their proposal will be in keeping with the sustainable development strategy for the wider area. To merely require that other potential development opportunities be taken into account would in my view downgrade the importance of this assessment. I therefore recommend that no modification be made to clause (a) in the light of objection 3829.

(i) *Clause (b) and density issues*

- 5.2.18. Since clause (b) refers to the density of development, it is clear that it is intended to refer to built-development and not to changes of use or other operations. In the circumstances, I consider it is appropriate for the clause to refer to "General building development" rather than merely to "development" as suggested by Old Road Securities Plc.
- 5.2.19. PPG3 (CD3A) advises that the density for new housing should generally not fall below 30 dwellings per hectare. In the light of this I can understand objectors' concerns that the wording of clause (b), which seeks to restrict maximum density to that which is consistent with the character of the area, could bring it into conflict with the aims of national policy. In my view the problem lies not so much with the choice of words but as to how the policy is implemented. If it is argued that to be consistent with the character of the area densities should not be higher than those which currently exist, then I believe it would be directly contrary to national policy. If on the other hand it is maintained that the density should be the maximum that could be achieved without causing harm to the character of the area then I consider it would accord with the aims of national policy.
- 5.2.20. My concern in this case is that the former interpretation is more likely. Although the Oxford Dictionary defines "consistent" as being 'compatible with' the word "consistency" also has the connotation of uniformity. Indeed this is what it is equated with in Roget's Thesaurus. In my view, it would be more sensible therefore to substitute the word "consistent" with the word "compatible", which the Oxford Dictionary defines as both 'able to coexist' and 'mutually tolerant'. In my view the alternative wording would be more likely to enable the policy to be interpreted with

the necessary flexibility to meet the government's objectives of achieving higher residential densities in future. I therefore recommend that the wording of clause (b) be amended accordingly.

(j) Clarity of and necessity for clause (c)

- 5.2.21. Since the issue of positive management of land and buildings under clause (c) is connected with the assessment of new development proposals, I find that it does relate to a land use issue. However, I am not satisfied that it is sufficiently clear as to what clause (c) is trying to achieve. It certainly does not appear to be directly related to the key objectives of either Structure Plan or national policy identified in paragraphs 5.3 or 5.4 of the Plan. Moreover, it is not obvious as to what would actually constitute positive management nor is it apparent as to how the Council envisages such management being effectively secured.
- 5.2.22. In the circumstances, while the objective of ensuring the proper management of land and buildings may be laudable, I do not believe clause (c), in its current form, would achieve this. I accept that it might be possible to substitute a clearer wording to overcome some, if not all, of the difficulties I have identified. However, even if this could be done, I am not satisfied that clause (c) is of such vital importance to the overall thrust of Policy 8 as to warrant it being retained. I therefore, recommend that clause (c) be deleted in response to objections 3829, 4171 and 4526.

Additional clauses

(k) Proximity to railway stations and public transport

- 5.2.23. There is no doubt that the proximity of new development proposals to public transport facilities can play an important role in achieving a more sustainable pattern of development. However, for the reasons I have already given in paragraph xx of my report I do not believe that proximity to railway stations is, by itself, of paramount importance within the context of Hemel Hempstead. In contrast I believe accessibility by a wide range of other forms of transport, including buses, is vital to ensuring the optimum use of land. I appreciate that not all land close to a railway station or public transport facilities may be suitable for development but this does not override the importance of this issue.
- 5.2.24. I appreciate that this matter is to some extent already covered by Policy 50 of the Plan. Nevertheless, I believe the Plan's integration would be significantly improved if the issue were also addressed in the structural policies at the start of the Plan. I recommend, therefore that, in order to meet objection 419, the Plan be modified to include a further criterion for judging new development proposals. In my opinion, the criterion should seek to ensure that development sites are accessible by a range of transport options, including public transport.

(l) Commencement and completion of development proposals

- 5.2.25. Paragraph 1 already indicates that appropriate proposals for the use of undeveloped or unused land should be brought forward as soon as practicable. I am not satisfied, therefore that a further criterion, which sought to ensure that proposals were expediently commenced and completed, is really necessary. Statutory conditions are

already imposed on most planning permissions setting out time limits for the commencement of a new scheme. These limits can be reduced where the particular circumstances of a proposal warrant a more rigorous approach. I do not see any need therefore for Policy 8 to cover the commencement of a development.

- 5.2.26. The Council also has the power under section 94 of the 1990 Act to terminate a planning permission if it is not completed within 12 months of a completion notice being served. Although section 94 is rarely exercised, I am satisfied that it should provide an adequate safeguard against the occasional developer who leaves a development unfinished for a substantial period of time. I find no reason, therefore, to warrant the inclusion of an additional clause within Policy 8, relating to the timely commencement and completion of developments. Accordingly I recommend that no change be made to Policy 8 in the light of this element of objection 5062.

Clauses (i) to (iv) concerning additional criteria for building development

(m) *Shared off-street parking facilities*

- 5.2.27. I am satisfied that the effective use of parking facilities is a land-use issue since it can have a important consequential impact on the availability of land for other uses. I consider, therefore, that it is reasonable for the policy to encourage the shared use of parking facilities where appropriate. In the absence of any other clear reason for the deletion of this clause, I see no reason to recommend it be deleted in response to objection 4171.

(n) *Deletion of clause (iv)*

- 5.2.28. In order to achieve the optimum use of land it is crucial that wherever possible development fits within a comprehensively planned framework for the area. Within this context, it is important that individual proposals do not obstruct the achievement of the wider strategy. I therefore conclude that it is appropriate for this clause to remain in Policy 8. However, I recommend that the clause be reworded so that it is positively expressed.

Clauses (i) to (iii) concerning phased development

(o) *Combination of clauses (i) and (ii)*

- 5.2.29. Although the meaning of clause (i) is relatively clear, I find it to be somewhat repetitive of clause (iv) in the preceding section of the Policy. Nevertheless, I do not consider this is sufficient reason to delete it or to amalgamate it with clause (ii).
- 5.2.30. I am far more concerned about clause (ii). In my view, the meaning and intention of this clause is far from clear. In particular, it is not apparent on what basis a scheme would be judged to be satisfactory. I could understand if the clause was meant to imply that each phase of a development should be able to function independently. However, the Council states in its rebuttal (LPA Doc. No. 205) that this is an incorrect interpretation. They do not give any indication as to what they consider the correct interpretation to be. I am concerned, therefore, that clause (ii) is lacking in clarity.

- 5.2.31. It seems most likely that the Council is seeking to ensure that each individual phase would comply, in its own right, with the design and environmental policies of the Plan. They are probably also endeavouring to make certain that it would not frustrate the objectives of Policy 21 in respect of the provision of affordable housing. If this is the case then I believe the clause would be more precise if it said so. I also consider that it would be more appropriate for it to come last in the list of clauses under this section of the policy. I therefore recommend that clause (ii) be modified accordingly in response to objection 3829.

(p) Clarity of clause (iii)

- 5.2.32. Again it is not apparent as to what the “proper management” of land would entail nor is it clear how such management would be achieved. I am also uncertain as to how the clause would assist in achieving the optimum use of land. In my view the objector’s suggested alternative phrasing, which seeks to ensure that an individual phase does not inhibit the implementation of later phases, is far clearer. The Council does not indicate that such an interpretation is incorrect. I consider therefore that the alternative phrasing would be an improvement. I recommend that clause (iii) be modified accordingly and that in the light of my recommendation in paragraph 5.2.31 it be renumbered as clause (ii).

Recommendation

- 5.2.33. **The Plan be modified by the rewording of Policy 8 as follows:-**

“Previously developed, vacant or underused land and buildings should be brought into appropriate use(s) as soon as practicable through new building, conversion, adaptation or other alterations.

Temporary uses will be permitted in the interim providing they are compatible with the character of the surrounding area and would not prejudice the achievement of any specific proposal in the Plan or any other appropriate permanent use of the site.

Proposals for new development will be judged against the following principles to secure the optimum use of land in the long term:

- (a) All development must be planned and implemented in a co-ordinated way, taking a comprehensive view of potential development opportunities in the immediate area wherever possible.**
- (b) General building development should be designed to achieve the maximum density compatible with the character of the area, surrounding land uses and other environmental policies in the plan.**
- (c) Development should be accessible by a range of transport options, including public transport.**

In particular, building development will be permitted if it:

- (i) Makes optimum use of the land available, whether in terms of site coverage or height; or**
- (ii) Contributes towards or provides for the reasonable sharing of facilities, such as off street car parking; or**
- (iii) Does not prevent other land coming forward for development in future; or**
- (iv) Helps to achieve a comprehensively planned development framework.**

Building development can be implemented in phases, provided each individual phase:

- (i) Is designed so that it can be integrated with the wider development framework;**
- (ii) Does not inhibit the implementation of later phases of the development;**
- (iii) Complies with all relevant design and environmental policies of the plan and would not frustrate the objectives of providing an appropriate level of affordable housing in accordance with Policy 21.**

END OF CHAPTER 5