



Our ref: NCH/HE/DIO-CTTCNP-Mods

24 August 2023

Chetwynd: The Toton and Chilwell Neighbourhood Plan  
Planning Policy Team  
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Dear Policy Team

**Public Consultation: Proposed Amendments to the Chetwynd: The Toton and Chilwell Neighbourhood Plan**

**Representations by Homes England/Defence Infrastructure Organisation**

We act on behalf of Homes England (HE) and the Defence Infrastructure Organisation (DIO) in relation to their proposals for the redevelopment of the Chetwynd Barracks site, in accordance with Policy 3.1 of the Part 2 Broxtowe Local Plan.

We have attached for the attention of the Examiner, the Neighbourhood Forum and Broxtowe Borough Council a Schedule setting out our Clients' comments on the proposed Amendments (or Modifications) to the Neighbourhood Plan. We have made it clear whether our Clients support or object to the Modifications, and have set out as appropriate our proposals for either deletion or revision of the text that has been proposed by the consultation.

Whilst the Schedule is drafted so that it may be read on its own, we would make the following brief comments on the approach that HE/DIO has adopted in making their comments and recommendations.

**The Scope of HE/DIO's Comments on the Modifications**

1. HE/DIO are fully aware of the principle that the comments at this stage should only be on the Modifications, and that there is no need to repeat comments made at earlier stages of the plan-making process. HE/DIO are similarly mindful of the Examiner's instructions in her letter dated 13 July 2023 that comments should be confined to the Modifications. HE/DIO have fully respected this, but have found it necessary to comment on almost all of the Modifications that have been proposed, because of the potentially significant change in outcomes that arise from even limited changes to drafting. This should not be construed as HE/DIO having a second bite at the cherry, but a necessary outcome of (i) the scale of the reorganisation of the draft Plan; (ii) the number of changes that the Examiner has directed should be considered; and (iii) that a majority of the policies in Section D have undergone substantive change.

2. HE/DIO has referred back to its 4 August 2022 representations in some cases, but has done so to emphasise why they have commented on the Modifications to those policies. Moreover, HE/DIO has to consider the effect of the proposed Modifications on those policies on which it commented at Reg. 16 draft stage, and how the incorporation of the Modifications (if accepted) would impact on those original objections.

**References in the Modifications to the Toton and Chetwynd Strategic Masterplan SPD**

3. HE/DIO is mindful of the comments of the Examiner in relation to the benefits of 'alignment' of the Neighbourhood Plan with the Strategic Masterplan SPD. Whilst mindful of those comments, HE/DIO are similarly concerned that the Modifications must not have the effect of elevating the status of the SPD in the decision-making process above that of a "material consideration" (noting that the SPD is non-statutory, not fully evidence-based, has not been subject to viability assessment, and has not been subject to independent scrutiny). Modifications [X9], [B29] and [D-A10] relating to Policy INF01 provide clear examples of where this may be the outcome of the proposed changes.
4. We have also noted that the Reg. 14 draft Plan preceded the first consultation on the Strategic Masterplan SPD, and that the Reg. 16 draft Plan was published well ahead of the adoption of the SPD. Neither draft referred to the Strategic Masterplan SPD in the list of documents that were said to have informed their content. If the SPD has subsequently influenced the Plan, as now proposed to be Modified, it seems to HE/DIO that the Forum may need to;
  - a) set out explicitly the content of the Neighbourhood Plan as Modified that is now based on the SPD;
  - b) incorporate that content from the Strategic Masterplan SPD into the Neighbourhood Plan; and
  - c) subject that content to consultation and potentially Examination.
5. We suspect that this may be avoided simply by ensuring that the Modifications do nothing more than demonstrate alignment (or otherwise), and do not inadvertently imply greater status to the SPD than they should. We have suggested some alternative drafting in our comments on Modification [X9] which we think should avoid this procedural risk.

**The Basic Conditions**

6. Finally, please note that on the basis that the Modifications have all been put forward to address failings against the Basic Conditions, it follows that our comments on the Modifications also have that effect (i.e. are proposed to support alignment with the Basic Conditions where that is not currently the case).

We hope that our Client's representations are clearly set out, but would be pleased to clarify any matters where that may not be the case.

Yours faithfully

**Avison Young UK Ltd**

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# Homes England and Defence Infrastructure Organisation: Chetwynd Barracks

## Comments on the CTTC Neighbourhood Plan Modifications (August 2023)

Modification	HE-DIO comment on Modification
<b>Introduction</b>	
<b>[X7]</b>	<p>Homes England/Defence Infrastructure Organisation ('HE/DIO') understand the reason for the Modification but is concerned with:</p> <ul style="list-style-type: none"> <li>• deletion of the reference to the NPPF as a matter that the Neighbourhood Plan (NP) should be in line with, having regard to Basic Condition (a); and</li> <li>• the explicit reference to only Policies 3.1 and 3.2 in the Part 2 Local Plan, given that there are other relevant strategic policies.</li> </ul>
<b>[X9]</b>	<p>Three new paragraphs have been added to the text, and a further paragraph has been substantially amended. HE/DIO has no issue with the first of the new paragraphs which provides a fair reflection of the relevant content of the Part 2 Local Plan (paras 3.7-3.11).</p> <p>HE/DIO are, however, concerned with the wording of the second, substantially amended paragraph, which says that the Strategic Masterplan SPD will be used by BBC to <i>"guide planning application decisions within the masterplan area, providing more detail to the Local Plan and NP which together form the Development Plan for the area."</i> The Modification should make it expressly clear that decisions on applications for planning permission within the Neighbourhood Area are to be made in accordance with the Development Plan, and that the SPD comprises a material consideration to which some weight may be applied in the decision-making process. The weight to be attached to the SPD is to be determined having regard to, amongst other things, the evidence that informs the content of the planning application, compared with that which informed the SPD, and whether the untested proposals in the SPD are capable of implementation and/or represent best outcomes, having regard to the evidence base and results of consultation.</p> <p>HE/DIO is concerned also with the inference (which may be down to our reading of the drafting) that the SPD is Supplementary to the NP. It is not.</p> <p>The third new paragraph appears likely to overstate the influence that the Forum had on the content of the SPD. The SPD could unambiguously not have informed the content of the Reg. 14 draft Plan - because the SPD was first consulted on after the Reg. 14 draft Plan had been published. And, as far as HE/DIO is concerned, the SPD had no influence on the Reg. 16 draft Plan, given that the SPD was not referred to in the list of evidence and other documents in the Reg. 16 draft Plan which are said to have informed the Reg. 16 draft Plan.</p>

	<p>Fundamentally, although HE/DIO understand that the NP may wish to reference the adopted SPD, because it now forms part of the planning context, HE/DIO is concerned that the Modifications do not clearly or accurately represent the status of the SPD (as a non-statutory and “flexible framework”) or its relationship with the NP. HE/DIO <b>PROPOSE</b> that the wording be amended to more accurately state that:</p> <p><i>“Applications for planning permission on sites with the Neighbourhood Plan Area will be determined in accordance with the relevant policies of the development plan (as required by Planning Law). The Toton and Chetwynd Barracks Strategic Masterplan SPD is a non-statutory plan and, as such, comprises a material consideration in the determination of planning applications within the Neighbourhood Plan Area. The weight to be attached to elements of the Strategic Masterplan SPD will depend on the extent to which they are demonstrably evidence-based, tested, and consistent with the policies in the development plan, including the Neighbourhood Plan, which post-dates the adoption of the SPD.”</i></p>
<p><b>[X10]</b></p>	<p>HE/DIO understand that the Modification has been made because the new ‘centres’ will contain more than just retail floorspace; but note that the Part 1 Local Plan includes definitions of ‘District’ and ‘Local’ centres, and ‘Centres of Neighbourhood Importance,’ and that the difference between them may not be great.</p> <p>Whilst the ‘centres’ that are to be delivered on Chetwynd Barracks and the SLG may fall within the definition of ‘Local Centre’ in the Glossary to the Part 1 Local Plan, they might not, having regard to the relevant content of Policies 3.1 and 3.2 in the Part 2 Local Plan. One way of covering this matter without over-complicating the Neighbourhood Plan would be to include a note to the effect that (i) the reference to ‘Local Centre’ in the Neighbourhood Plan is not linked to the definition in the Part 1 Local Plan and (ii) that the scale and mix of uses in the ‘centres’ within the Barracks and SLG sites will be determined within the planning applications for those sites.</p>
<p><b>Section B – Toton and Chilwell – A Vision for the Future</b></p>	
<p><b>[B2]</b></p>	<p>HE/DIO notes the change from “circa 4,500 new homes” to “<b>up to</b> circa 4,500 new homes.” HE/DIO is not aware of any change in policy or new evidence that would suggest a need to imply some constraint on the number of new homes (although accept that the word “circa” is retained).</p>
<p><b>[B29]</b></p>	<p>For similar reasons to those set out in relation to [X9], HE/DIO <b>OBJECT</b> to the addition of the Strategic Masterplan SPD into the list of “work carried out to inform development options thus far” because it is inaccurate. As with the comments on [X9] above, HE/DIO are concerned that the SPD is being given unwarranted status in the Modifications. As noted, the SPD could not have informed the content of the Reg. 14 draft Plan, and HE/DIO is not aware that the SPD informed the content of the Reg. 16 draft NP in any substantive way, given that the preparation of the SPD progressed behind the preparation of the NP.</p> <ul style="list-style-type: none"> <li>• The SPD was subject to consultation which closed in November 2020, and then again in January 2022.</li> <li>• The Reg. 14 draft NP consultation ran to Sept 2019, and ended before the first draft of the SPD was published.</li> <li>• The Reg. 16 draft NP consultation ran to August 2022, and so some considerable time before the adoption of the SPD (which the Forum opposed).</li> </ul>

	<p>Fundamentally, paragraph 9.9 was first drafted well before the SPD was prepared. It appeared with precisely the same wording as paragraph 18.4 in the Reg. 14 draft NP, which was drafted before the first consultation on the SPD.</p> <p>If the SPD has indeed informed the content of the final version of the Neighbourhood Plan, the Forum must explain to what extent the SPD has influenced the content of the Modifications. It could not have influenced the Reg. 14 draft Plan due to timing. It did not inform the content of the Reg. 16 draft plan, as it is not referred to in paragraph 9.9 (page 42) of the Reg. 16 draft Plan. If the SPD has influenced the content of the Modifications, procedurally the Forum may have no choice but to undertake a further Reg. 16 consultation, so that HE/DIO and others have an opportunity to comment on the changes that arise.</p> <p>HE/DIO also note and <b>OBJECT</b> to the insertion at this late stage of the reference to the undated Kefa Masterplan in Modification [B29].</p> <p>We note that the Forum has recently published on its website (well after the publication of the Reg. 16 draft Plan) an updated version of the Kefa masterplan. Reference to the Kefa Masterplan is added by Modification [B29] without any explanation as to how the most recent Kefa Masterplan has influenced and informed the content of the Modifications (which is presumably the reason for including it in new paragraph 8.1, given that previous versions of the Kefa Masterplan were not referred to in the Reg. 16 draft NP) and without it having being provided for comment by interested parties.</p> <p>For the reasons given above, HE/DIO <b>PROPOSE</b> that the inclusion of either document in the list at new paragraph 8.1 be deleted. Otherwise the Forum must explain in what way both documents have influenced the content of the Neighbourhood Plan post consultation on the Reg. 16 draft Plan (which referred to neither the SPD nor the Kefa Masterplan) and should provide interested parties with an opportunity to comment.</p>
<b>[B32]</b>	<p>As with [X9] and [B29], HE/DIO are concerned with the insertion of new para. 8.3, which is substantively similar to the first new paragraph inserted at [X9] and <b>PROPOSE</b> that it be deleted.</p>
<b>[B37]</b>	<p>HE/DIO <b>SUPPORT</b> the deletion of any reference to a new North-South route linking the A52 and Swiney Way as part of any Masterplan for the site given that;</p> <ul style="list-style-type: none"> <li>a) delivery of any link is not in the Forum's control;</li> <li>b) there is no planned, programmed or funded scheme in place (indeed a recent bid for Levelling Up funding was unsuccessful); and</li> <li>c) that the references went beyond the relevant content of Policy 3.1 of the Part 2 Local Plan and represented a failure against the Basic Conditions.</li> </ul>
<b>[B38]</b>	<p>HE/DIO's comments in relation to [B38] are as per their comment in relation to the reference to 'local centre' in [X10] (please refer to [X10]).</p>
<b>[B41]</b>	<p>HE/DIO <b>SUPPORT</b> the changes to (new) paragraph 8.12, although can see no reason to retain paragraph 8.12 at all, given that</p> <ul style="list-style-type: none"> <li>a) the Modifications say that its content is now irrelevant; and</li> <li>b) that (former) paragraphs 9.22 and 9.23 are proposed to be deleted.</li> </ul>

<b>[B42]</b>	HE/DIO <b>SUPPORT</b> the deletion of (former) paragraphs 9.22 and 9.23 as HE/DIO has been consistent in its representations in saying that Building 157 will not be retained given its scale and impact on viability.
<b>[B43]</b>	<p>HE/DIO <b>SUPPORT</b> the amendments to the third part of the Vision Statement that delete reference to the plan setting new standards for Britain.</p> <p>HE/DIO also <b>SUPPORT</b> the inclusion of the new fourth part of the Vision Statement as that aligns with HE/DIO's position.</p> <p>HE/DIO notes the additions to the (now) fifth part of the Vision Statement but, as with [B2] <b>OBJECTS</b> to the inclusion of the words "up to" as that may unduly constrain sustainable development. HE/DIO maintain their concerns about the reference to "world class".</p>
<b>[B44]</b>	As a minor comment, HE/DIO is not sure that the Forum's vision can remain the same post IRP, given the substantial impact that has on the SLG in particular.
<b>[B45]</b>	HE/DIO <b>SUPPORT</b> the deletion of the phrase "before significant further homes are built" but is unsure of the meaning of the phrase that has been added, because it is not clear what new development it is to link with. It remains the case also that the Forum cannot "build" any new road.
<b>[B47]</b>	There is a link again here to [X10] and [B38] given the reference to "local centre" but otherwise the Modification is <b>SUPPORTED</b> .
<b>[B48]</b>	HE/DIO <b>SUPPORT</b> the Modifications to (former) Figure 19 by way of the removal of green corridors defined by lines and replacement with a more diagrammatic style of annotation.
<b>[B53]</b>	HE/DIO notes that the proposed Modification refers only to improving "road" infrastructure, but would <b>PROPOSE</b> the reference to be changed to "transport infrastructure, including active travel measures, public transport, and road infrastructure where that is fully justified."
<b>[B59]</b>	There is a link again here to [X10], [B38] and [B47], given the reference to "local centre."
<b>[B60]</b>	There is a link again here to [X10], [B38], [B47] and [B59], given the reference to "local centre."
<b>[B62]</b>	<p>Table 11.1 Core Objectives and Supporting Policies lists policies against objectives. In most cases retained policies (whether combined or retained in isolation) have been changed, and even subtle changes in wording may have the effect of bringing about a materially different meaning and application. This means that HE/DIO has found it necessary to comment on policies which they have commented on previously.</p> <p>Whilst aware of the principle that the comments at this stage should only be on the Modifications (i.e. there is no need to repeat comments made at earlier stages of the plan-making process), HE/DIO has found it necessary to comment on almost all of the changes that have been made, because of the potentially</p>

	<p>significant changes in outcomes arising. This should <u>not</u> be construed as HE/DIO having a second bite at the cherry, but a necessary outcome of the changes to certain policies arising from the Modifications.</p>
<p><b>Section D – Neighbourhood Plan Policies</b></p>	
<p><b>HE/DIO General Comment</b></p>	<p>HE/DIO repeat here their concerns about the treatment of the Strategic Masterplan SPD in the Modifications, and in this case in relation to Section D (to be renamed as Section C).</p> <p>The Forum and BBC have taken the opportunity when drafting the Modifications to make certain changes which, whether intending to or not, appear to give the Strategic Masterplan SPD greater weight in the decision-making process than it should attract, given that the SPD is non-statutory, is not evidence-based, has not been subject to viability assessment, and has not been subject to independent examination (because it is non-statutory).</p> <p>Moreover, BBC rejected comments made by HE/DIO and others in relation to the content of the SPD. Whilst that is, of course, open to an LPA when preparing an SPD, the SPD was ‘adopted’ without HE/DIO, as key stakeholders, having had any opportunity to put their legitimate concerns to an independent Examiner for testing. In this context, any attempt to give greater weight to the SPD in the decision-making process is inappropriate.</p> <p>It is also true that the SPD is supplementary to the Broxtowe Local Plan, not the Neighbourhood Plan. Nor has the Neighbourhood Plan been prepared with the content of the SPD in mind; which is clear both from the timelines along which each has progressed.</p> <p>Consequently, HE/DIO <b>OBJECTS</b> to any Modification that will have the effect of giving the SPD statutory weight. Modification [D-A10] relating to Policy INF01 is a particular example of this. Any such Modification should not be taken forward, <u>unless</u> the Forum are to return to Reg. 16 stage to give those with an interest in the Neighbourhood Plan an opportunity to comment (having regard to the advice at Modifications [X9] and [B29] that the policies of the Neighbourhood Plan have been informed by the Strategic Masterplan SPD). If that is right then procedurally the Forum should;</p> <ol style="list-style-type: none"> <li>a) confirm the content of the Neighbourhood Plan that is based on the Strategic Masterplan SPD;</li> <li>b) incorporate that content from the Strategic Masterplan SPD into the Neighbourhood Plan; and</li> <li>c) subject that content to further consultation and a process of independent Examination.</li> </ol> <p>Otherwise, HE/DIO is concerned that the Modifications as worded elevate the status of the Strategic Masterplan SPD in the decision-making process, which is inappropriate and potentially challengeable.</p>

<p><b>[D3]</b></p>	<p>[D3] includes a new final bullet which says that <i>“For some policies, Forum aspirations have been included below the justification text in a separate box for developers to consider where feasible.”</i> HE/DIO <b>OBJECT</b> to this Modification and propose that it be struck out. Moreover, HE/DIO <b>OBJECT</b> to “Aspirations” boxes being added beneath ENV03 [D14] and [D15]; HAS04 [D29]; LCH01 [D39]; LCH02 [D42] and EMP01 [D51] and proposed that they should be deleted.</p> <p>HE/DIO’s reasons for this are that the “Aspirations” are certainly not policy, but neither are they justification/supporting text. Applicants and decision-makers will have no idea what weight should be attached to them, either when preparing their development proposals, or when those proposals are determined (and, of course, the Forum will not be the decision-maker).</p> <p>If the Forum wanted the “Aspirations” to carry weight, they should have been the subject of draft policies for testing through the Examination process. Or, they could have been included outside Section D as matters which form part of the Vision. By now including them in Section D (Neighbourhood Plan Policies), the inference is that they might attract some weight in the decision-making process, whereas they should not. HE/DIO might have been less concerned if they had been covered in supporting text. But, by adding them in boxes, the inference could be that they have greater status than the supporting text. They should be deleted, or relocated outside Section D.</p>
<p><b>[D-A2]</b></p>	<p>HE/DIO notes and <b>SUPPORT</b> the removal of the Playing Fields from the list of LGS in Policy ENV01. HE/DIO does not object to the inclusion of text that explains that the expectation is that the Playing Fields will be retained, not least because that is what Policy 3.1 in the Part 2 Broxtowe Local Plan says.</p> <p>HE/DIO is unsure, however, why the Modified Policy sets out only one scenario where loss would be contemplated (which is where an area of equal value were proposed to replace loss). Paragraph 99 of the NPPF gives three circumstances where loss may be supported which, in addition to that suggested in Modified Policy ENV01, are <i>“(a) where an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements”</i> and <i>“(b) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”</i> It is not clear why these exceptions have been excluded from Modifications Policy ENV01.</p> <p>In relation to Para 99 (a), we understand that the 2016 Playing Pitch Strategy is the most recent for Broxtowe Borough. Sport England treats any PPS that is more than 2-years old as being “out-of-date” for the purpose of the application of its own planning policies and its engagement in the development management process, so that there is no up-to-date assessment of need in the Borough. If HE/DIO were to promote the use of some or more of the playing fields for development, para 99 of the NPPF would still apply (as would the relevant content of Policy 3.1), and so HE/DIO would need to prepare an appropriate update to the 2016 PPS, unless the LPA had commissioned an update itself as part the Part 2 Local Plan Review process.</p> <p>With these points in mind, HE/DIO <b>OBJECT</b> to Modified Policy ENV01 and proposes that it be amended to say that <i>“The loss of Chetwynd Barracks Playing Fields would only be considered if one of the exceptions set out at paragraph 99 of the NPPF (2021) is demonstrably met”</i>.</p>



<p><b>[D7]</b></p>	<p>The supporting text to Policy ENV01 did not appear in the Reg. 16 draft Plan. HE/DIO <b>OBJECT</b> to the modified supporting text which should be changed to make clear the age and status of the Playing Pitch Strategy so that the references to the pitch supply in the south of the Borough are given proper context.</p> <p>Moreover, and consistent with our general comments, HE/DIO objects the reference to the SPD in the modified supporting text, which should either be deleted, or it should be made clear that the Strategic Masterplan SPD's content relating to playing fields is, similarly, based on out-of-date evidence.</p>
<p><b>[D-A3]</b></p>	<p>The first part of ENV02 – Natural Environment is new and states that <i>“Development should have <u>no adverse impact</u> on, and take opportunities to enhance and augment, habitats and biodiversity.”</i></p> <p>The Explanatory Note says (page 21) that <i>“Part of [Reg. 16 Policy ENV07] deleted and part moved to new Policy ENV02 (parts 1 and 2) [D-A3] and [D-A4]”</i>. This is incorrect. The wording of Modification [D-A3] did not appear in ENV07 and is new.</p> <p>HE/DIO object to the wording of [D-A3] as it is unrealistic to expect that development of the scale of that at Chetwynd Barracks and the SLG will have <i>“<u>no adverse impact</u> on ... habitats and biodiversity.”</i></p> <p>In this regard, paragraph 174 (b) of the NPPF (2021) says that planning policies and decisions should contribute to and enhance the natural and local environment by <i>“<u>minimising</u> [not avoiding entirely] impacts on and providing net gains for biodiversity”</i> (our emphasis). In addition, para 180 (a) of the NPPF (2021) sets out the steps that must be taken if <i>“significant harm to biodiversity resulting from a development cannot be avoided.”</i></p> <p>The need to minimise and mitigate impacts is a given, is set out in the NPPF in appropriate terms, and is set to be reinforced by the implementation of Mandatory BNG after the relevant date in November 2023. However, Modification [D-A3] goes beyond that clear policy framework without justification. It also potentially has unintended consequences as it denies the option for mitigation options that would deliver better outcomes for biodiversity. Consequently HE/DIO <b>OBJECT</b> to [D-A3] and proposes that it is either (i) deleted, or (ii) amended to at least be consistent with the NPPF and Environment Act (2020).</p>
<p><b>[D-A4]</b></p>	<p>The Explanatory Note says (page 19) that Reg. 16 Policy ENV02 is <i>“to be merged into new Policy ENV02 (part 2) – [D-A4].”</i> Again, this is incorrect as it is not only merged; it is reworded, and that rewording alters its meaning.</p> <p>Modified Policy ENV02 (2) is based on ENV02 in the Reg 16 Plan. Whereas the Reg. 16 version of ENV02 appeared to refer to the potential off-site implications of new development (i.e. by virtue of an increase in the use of green space due to an increase in population), Modified Policy ENV02 (2) appears to relate only to <u>on-site</u> impacts given the reference to <i>“its design and layout”</i> (which can only mean on-site) and that the reference to <i>“pay an appropriate contribution”</i> has been removed.</p>

	<p>If HE/DIO is reading this correctly (i.e. that it refers to on-site impacts) then HE/DIO would SUPPORT Modification [D-A3]. HE/DIO is concerned, however, that the Modified wording is not clear so that the effect of the policy is not clear. A lack of clarity is a problem for decision-making, and HE/DIO are not sure that they understand that intended outcomes, and so <b>OBJECT</b> to Modification [D-A3], because its application and effect is uncertain.</p>
<p><b>[D-A5]</b></p>	<p>The Explanatory Note says (page 20) in relation to Reg. 16 draft Policy ENV06 that <i>“Policy merged into Policy ENV02 (part 3) – [D-A5].”</i> This is incorrect because, whilst it is merged into new Policy ENV02, it is reworded, and that rewording significantly alters its meaning.</p> <p>The Reg. 16 version of ENV06 said that <i>“Development should not involve the removal of mature trees including TPOs, veteran and ancient trees. Development should seek to minimise the loss of other trees.”</i> HE/DIO objected to Reg. 16 draft Policy ENV06 for reasons that are set out on page 17 of their letter to BBC dated 4 August 2022. Those objections and concerns are not addressed by [D-A5]. In fact, HE/DIO’s concerns are now greater than they were, because;</p> <ul style="list-style-type: none"> <li>• the policy now introduces an <i>“exceptional circumstances”</i> test for any proposal to remove any mature trees (and <i>“mature”</i> remains undefined); and</li> <li>• whilst exceptions A. and B. purport to define what those <i>“exceptional circumstances”</i> might comprise;             <ul style="list-style-type: none"> <li>- exception A. gives no indication of how the <i>“benefits arising from major development”</i> are to be quantified, or balanced with the loss of trees (and does not explain how the value of trees to be lost is quantified), so that the exception is unworkable in a development management sense; and</li> <li>- exception B. is unrealistic, with the detail of any mitigation strategy to be determined according to the overall merits of the landscaping proposals submitted with major applications, and with redevelopment providing opportunities to create new and lasting landscape structure, and to create age and species diversity.</li> </ul> </li> </ul> <p>Whilst HE/DIO’s original objections from the Reg. 16 draft Plan are sustained, HE/DIO <b>OBJECT</b> also to Modification [D-A5]. If the Examiner is not persuaded by HE/DIO’s request in August 2022 (which was that Policy ENV06, which is now Policy ENV2 (3), should be deleted) HE/DIO proposes that at the very least:</p> <ul style="list-style-type: none"> <li>• the reference to <i>“exceptional circumstances”</i> should be deleted from Modification [D-A5]; and</li> <li>• exceptions A. and B. should be deleted, and replaced with a single requirement which HE/DIO <b>PROPOSE</b> should read that <i>“The loss of trees must be fully justified within any application for major development, and should be mitigated within an appropriate landscaping scheme to include replacement planting that will secure the creation of an age and species diverse landscape structure that will endure.”</i></li> </ul> <p>HE/DIO wish to emphasise that these representations do not suggest that its approach to tree retention and removal in respect of the redevelopment of the Chetwynd Barracks site will be anything other than evidence-based, justified and measured.</p>

	<p>The proposals <u>must</u>, however, have regard to the likely need for selective tree removal to secure best and optimum outcomes in relation to masterplanning and place-making objectives, good arboricultural management, and the needs that may arise in respect of delivering and effective access and estate road layouts. They will also have regard to the potential to create a new and lasting landscape structure for the new neighbourhood.</p> <p>Added to that, HE/DIO is fully aware of its obligations in relation to habitat and biodiversity matters, which are likely to be closely linked with the approach to tree retention, removal and replacement. HE/DIO's concern is that, whilst its objectives are aligned with those of the Forum, the imprecise nature of [D-A5] and the inclusion of an "exceptional circumstance" test without any explanation as to how that is to be applied, creates difficulties for the decision-making process and could ultimately hold against best outcomes in terms of a range of objectives, including arboriculture.</p>
<b>[D9]</b>	<p>HE/DIO welcomes the deletion of the supporting text from the Reg. 16 Plan which replicated processes prescribed by s.198 of the T&amp;CP Act 1990. HE/DIO notes also that the supporting text acknowledges that there is no up-to-date assessment quality or quantity of accessible natural green space, with the follow-on point being that the related content of the Neighbourhood Plan should be read in that context.</p>
<b>[D10]</b>	<p>HE/DIO note that the blue cells in Table 13.1 are described as "<i>expected gain of green spaces created as part of the designation of Local Green Spaces.</i>" Given that the effect of [D-A2] is that the Chetwynd Barracks Playing Fields are not to be identified as Local Green Space, the blue highlight should be removed from that line in the Table to be consistent with ENV01 and the plan of LGS and the Chetwynd Barracks Playing Fields. By the same token, the lines relating to Manor Farm Recreation Ground, Ghost House Lane, Toton Fields LNR and Inham Nook Recreation Ground should be highlighted in blue.</p>
<b>[D11]</b>	<p>Table 13.2 (as amended by [D11]) quotes the "<i>Broxtowe Borough Council Green Spaces Strategy</i>" as the source of some of its content, and that content contributes to the conclusions in the final column over the "<i>Area Shortfall (compared to Nottingham City).</i>" We do not know if the Forum proposes that the content of Table 13.2 might in some way be used to inform the application of Modifications Policy ENV03 (1). If that were the case, we would note that HE/DIO was advised by BBC more than two years ago in July 2021, when discussing the principles of green infrastructure delivery on Chetwynd Barracks, that the Broxtowe Green Spaces Strategy was no longer extant.</p>
<b>[D-A6]</b>	<p>The Explanatory Note says (page 20) in relation to Reg. 16 draft Policy ENV05 that "<i>Parts of Policy deleted and parts moved to new Policy ENV03 (part 1) [D-A6].</i>" This is incorrect and misleading.</p> <p>Modified Policy ENV03 (1) does not include reference to the long-term maintenance and management of new green spaces. HE/DIO <b>SUPPORT</b> that change, as it is in line with their comments at pages 16 and 17 of their representations dated 4 August 2022.</p>

	<p>However, as re-worded, Modified Policy ENV05 is substantively different from Reg. 16 draft Policy ENV05. HE/DIO <b>OBJECT</b> to the new elements of Modifications Policy ENV03 for the following reasons.</p> <p>a) It is said that major development should “<i>meet green and blue infrastructure standards</i>” but does not say what those standards are (either for green or blue infrastructure, or whether quantitative or qualitative). On this basis, the policy is not capable of reasonable application as those promoting development and taking decisions do not know whether a proposal is compliant or not.</p> <p>b) Our understanding is that standards to be applied in the decision-making process in Broxtowe are set out in the <u>Broxtowe Green Space Standard</u> (as found in the Green Infrastructure Study (GIS), and in Policy 32 in the Part 2 Local Plan) in relation to parks and gardens, amenity green space, natural and semi-natural woodland, and outdoor sports. The <u>Play Strategy</u> applies in relation to children’s play space (so that the Fields in Trust standard applies). Moreover, BBC has confirmed to HE/DIO that one green space typology can contribute against more than green space standard (e.g. the Memorial Gardens on the Barracks could contribute in relation to parks and gardens and semi-natural greenspaces) depending on the availability of public access. Given that Modification [D-A6] is now requiring that provision should “<i>meet standards</i>” HE/DIO would expect the new ‘Justification’ text to refer to the GIS. Whilst there are references to the GIS, those are in relation to typologies and existing provision and not in relation to standards. Moreover, there is no reference at all to the Broxtowe Green Space Standard.</p> <p>c) As per our comment on [D11] above, Table 13.2 (as amended by [D11]) quotes as its source the BBC “<i>Green Spaces Strategy</i>” as the source of some of its content which contributes to the conclusions in the final column over the “<i>Area Shortfall (compared to Nottingham City)</i>” but HE/DIO has been advised that is no longer extant, so that if Modifications Policy ENV03 (1) were to be applied having regard to the content of Table 13.2, that would be inappropriate.</p> <p>HE/DIO concludes that Modified Policy ENV03 (1) is neither evidence-based nor justified, or capable of application in the decision-making process. Consequently, HE/DIO <b>OBJECT</b> to modification [D-A6] and proposes that Modified Policy ENV03 be amended to read simply that:</p> <p><i>“Major development should provide green and blue infrastructure which could include provision for amenity green spaces, community gardens, allotments and children’s play spaces, as well as new accessible natural green space.”</i></p>
<p><b>[D14]</b></p>	<p>For the reasons set out in our comments on [D3] above, HE/DIO <b>OBJECT</b> to the inclusion of [D14] and propose that it be deleted.</p>
<p><b>[D15]</b></p>	<p>For the reasons set out in our comments on [D3] above, HE/DIO <b>OBJECT</b> to the inclusion of [D15] and propose that it be deleted. This does not mean the HE/DIO is not contemplating the de-culverting of Moor Brook as part of the site’s redevelopment; indeed that is something that HE/DIO expect to put forward. However, the Brook runs in more than one culverted channel and at this stage HE/DIO has not reached a conclusion on whether both would be opened up, or the channels combined, which would lead to different outcomes in relation to site capacity, layout, and place-making objectives in this part of the site. Moreover, HE/DIO (and therefore the Forum) currently has no survey of the culverts on which to base conclusions.</p>

<p><b>[D-A7]</b></p>	<p>The Explanatory Note says (page 20) in relation to Reg. 16 draft Policy ENV04 that <i>“Policy merged into new Policy ENV03 (part 2) and specific features referred to in the policy (instead of justification text. [D-A7].”</i></p> <p>We think this may be an error because Modified Policy ENV03 (2) relates to links between ecological assets whereas Reg. 16 draft Policy ENV04 related to new green corridors and green spaces prior to development within Chetwynd Barracks. Moreover, the Green Corridors in Modified Policy ENV03 (2) extend well beyond the boundaries of the Barracks. We assume that the Forum/BBC meant to refer to Reg. 16 draft Policy ENV08 because that looked to secure a <i>“positive impact on connectivity between ecological assets”</i> (and Reg. 16 draft Policy ENV08 is not otherwise retained).</p> <p>Notwithstanding, Modification [D-A7] has not addressed all of the comments that HE/DIO made in relation to Reg. 16 draft Policy ENV08. The reference to <i>“positive impact”</i> has been removed, which is supported, but it remains unclear whether (i) it applies within the boundaries of major development sites, or (ii) is intended to apply outside the boundaries of major development sites. We assume the latter, and so HE/DIO <b>OBJECT</b> to the Modified wording as it remains incapable of application where the Green Corridors (albeit <i>“Indicative”</i>) extend outside site boundaries.</p> <p>If the Forum wishes to retain the potential for sites to contribute collectively to the establishment of <i>“Indicative Green Corridors”</i> that extend beyond and between sites, it should recognise that cannot be achieved by individual developments, but the Policy could be modified to say that,</p> <p><i>“Major development should take opportunities to promote connectivity between different ecological assets by the incorporation of green corridors within the site (as shown indicatively on the “Plan showing Green Corridors”), the alignment of which should not prejudice the potential for those corridors to be extended beyond the site boundary, should the redevelopment of adjacent land be promoted and provide an opportunity to do so, and provided that does not conflict with any other policies in the Local Plan.”</i></p>
<p><b>[D-A8]</b></p>	<p>The Explanatory Note says (page 19) in relation to Reg. 16 draft Policy ENV03 that <i>“Policy merged into new Policy ENV03 (part 2) and specific features referred to in the policy (instead of justification text. [D-A7]”</i> and that <i>“Latter part of policy merged in Policy ENV03 (part 3) [D-A8].”</i> This does not seem accurate as Reg. 16 draft Policy ENV03 related only to the SLG whereas Chetwynd Barracks was covered by Reg. 16 draft Policy ENV04. That aside, HE/DIO notes the following.</p> <p>The Indicative Green Corridors are now, as a consequence of [D-A8], referred to as providing <i>“accessible natural green space.”</i> That may be one function of a Green Corridor, but will not be their only function. The inference is that the Green Corridors perform a limited function which relates primarily (and in some cases solely) to ecological considerations. That is inappropriate (and indeed conflicts with Modified Policy ENV03 (3) which acknowledges wider functions for Green Corridors) and so HE/DIO <b>OBJECT</b> and <b>PROPOSE</b> that the wording used in the Reg. 16 draft Plan (i.e. a simple reference to a <i>“corridor”</i>) replace the references to <i>“accessible natural green space.”</i></p>

The Green Corridors are explicitly **Indicative** according to the “Plan Showing Green Corridors.” Yet the Forum has now promoted them from the Supporting Text to Policy ENV04 in the Reg. 16 draft Plan to ‘upper case’ Policy. This is incompatible with their indicative status and so HE/DIO **OBJECT** to this change and propose that they are put back into the ‘Justification’ (or supporting text) to Modified Policy ENV03 (2).

In the event that the text describing the Green Corridors remains in the ‘upper case’ Policy, HE/DIO **OBJECT** unless the policy is revised to make it explicit within the policy itself that the Green Corridors are Indicative.

The descriptions say that the corridors should “*link*” the spaces that are mentioned or follow the alignment of specified features. However, some of the spaces that are to be “*linked*” cannot be linked by a single development, as they do not both lie within the boundaries of the allocated sites. This is made more problematic by the decision to promote the descriptions of the corridors from justification/supporting text to policy. HE/DIO **OBJECT** on the basis that Modified Policy ENV03 (2) is incapable of being met where a corridor extends beyond a site boundary. HE/DIO recommends that ENV03 (2) should be revised by,

- a) placing the descriptions back into the Justification; and/or
- b) revising the descriptions so that they are purely descriptive and do not require that places are linked where they cannot be linked.

[D-A8] includes only part of Modified Policy ENV03 (3) so that Policy ENV03 (3) A, B, C and D are not obviously part of [D-A8] or [D-A9]. We have chosen to cover the whole of ENV03 (3) as if it is part of [D-A8]. HE/DIO’s concerns in relation to Modified Policy ENV03 (3) are as follows.

HE/DIO notes that the reference in Modified Policy ENV03 (3) to “*multifunctionality*” is newly introduced by the Modifications and so has paid careful attention to what the intended use of the term “*multifunctionality*” may be in the application of Policy ENV03 (3) in due course.

HE/DIO would expect that Green Corridors would perform a genuinely multifunctional role so that the Green Corridors will form,

- a) part of the quantitative requirement for public open space as per the Broxtowe Green Space Standard and Play Strategy,
- b) a network of strategic open space including a variety of open space typologies,
- c) part of the amenity of the site,
- d) part of the proposals for maximising Active Travel options to and through major development sites,
- e) part of the response to the need to meet all obligations in relation to ecology and biodiversity.

Whilst HE/DIO welcomes the acknowledgment that Green Corridors should be multifunctional spaces, HE/DO are concerned that Policy ENV03 (3) suggests a definition of multifunctionality that is considerably narrower than that suggested above. Consequently HE/DIO **OBJECT** to the introduction of the term “*multifunctional*” into upper case policy unless accompanied by a definition either within the Policy itself or in the Justification.

	<p>HE/DIO <b>SUPPORTS</b> the removal of reference to the dimensions of the Green Corridors, but is unsure of the reference to the Green Corridors being of a <i>“sufficient width and area”</i> to support multifunctionality. That will depend on the functions to be incorporated. HE/DIO <b>OBJECT</b> to this wording on the basis that it is imprecise and suggests that it reads simply that:</p> <p><i>“New blue and green infrastructure should support a variety of different open space, movement, and arboricultural/ecological functions, with those to be determined having regard to site specific considerations and the development that is proposed.”</i></p>
<p><b>[D13]</b></p>	<p>HE/DIO has five comments on the “Plan Showing Green Corridors.”</p> <ul style="list-style-type: none"> <li>• first, HE/DIO supports the reference to Green Corridors being <i>“(Indicative),”</i></li> <li>• second, the title is not quite right as the plan also shows <i>“Green Spaces,”</i></li> <li>• third, the legend should define <i>“Green Spaces”</i> so as to avoid confusion with <i>“Local Green Space”</i> as that does not apply to the Barracks Playing Fields,</li> <li>• fourth, it would help the reader if the Indicative Green Corridors were labelled to cross-refer to the content of Modified Policy ENV03, and</li> <li>• the corridor to the south-east extends beyond the Neighbourhood Plan boundary.</li> </ul>
<p><b>[D-A10]</b></p>	<p>For reasons set out in the covering letter to these representations, and above in relation to [X9], [B29] and the ‘HE/DIO General Comment’ at the start of our comments on Section D, HE/DIO <b>STRONGLY OBJECT</b> to the reference in Modified Policy INF01, inserted by [D-A10], to the Strategic Masterplan SPD.</p> <p>The Explanatory Note says (page 21) in relation to Reg. 16 draft Policy INF01 that <i>“Policy deleted although policy to safely manage increased traffic has been incorporated within Part 1 of new Policy INFO1. Reference has also been added in relation to the Toton and Chetwynd Barracks Strategic Masterplan SPD [D-A10].”</i></p> <p>Whilst on the face of it this seems innocuous, the effect is to give full statutory weight to the relevant content of the SPD (because <i>“infrastructure proposals .. will need to be <u>in accordance with</u>”</i> the SPD [emphasis added]). This is inappropriate given that:</p> <ol style="list-style-type: none"> <li>a) the SPD is non-statutory,</li> <li>b) the SPD is supplementary to the Local Plan, not the Neighbourhood Plan,</li> <li>c) the SPD is not based on robust, tested and justified evidence relating to the infrastructure that it proposes,</li> <li>d) some of that infrastructure is not funded, consented or programmed, and fundamentally,</li> <li>e) the SPD has not been subject to scrutiny or examination to the extent that would support any greater weight being attached to it than that of a ‘material consideration.’</li> </ol> <p>Even if it were appropriate to refer to the SPD in this way in Policy in the NP (which it is not) New Policy INF01 does not say which infrastructure proposals in the SPD are relevant to the Policy.</p>

Moreover, New Policy INF01 is unnecessary in any event, and certainly insofar as Chetwynd Barracks is concerned, because strategic infrastructure requirements for the Barracks are set out clearly in Policy 3.1 and are that the development should;

- a) *“provide attractive and convenient walking and cycling routes through the site connecting to the proposed HS2 station, the tram and to other recreational routes and nearby facilities.*
- b) *provide a bus route through the site.*
- c) *upgrade existing access points and road network within the site, with Chetwynd Road to be prioritised for buses, cyclists and pedestrians.*
- d) *ensure that the ability to provide a north/south road to link to the Tram Park and Ride site is **positively facilitated** by development.*
- e) *highway infrastructure must be considered in conjunction with requirements for the Toton SLG and wider area as progressed through the Gateway Study and transport modelling.”*

None of these requirements need the SPD to be realised. **Matters a), b), c) and d)** are readily covered by the preparation of a Masterplan, Design Codes and Design and Access Statement for the Barracks as part of the outline planning application process.

**Matter e)** is covered by the Scoping of the Transport Assessment, which is being prepared by Hydrock and Systra utilising the Gateway Model which Systra built for use by the Local Highway Authorities that its geography covers.

In relation to **Matter d)**, we refer the Examiner to paragraphs 22-33 of HE/DIO’s representations to the Reg. 16 draft Plan dated 4 August 2022 and, in particular, the confirmation at para 33 c) that HE/DIO are obliged in any event to deliver a road from Swiney Way to Annington Homes’ land, so that the OPA for the Barracks will deliver that section of the North-South Link Road and so will *“positively facilitate”* its delivery. The Examiner may also be aware that the funding bid referred to at para 30 of HE/DIO’s representations to the Reg. 16 draft Plan failed (as did an earlier HIF bid).

It is relevant also that, despite HE/DIO having requested that the reference to the North-South Link Road in the Strategic Masterplan be shown as ‘Indicative’ (as it was in the Reg. 16 draft Neighbourhood Plan), because the alignment shown was not deliverable due to gradients, BBC rejected those representations, with the effect that the route of the North-South Link through the Barracks shown in the SPD is considered by BBC to be ‘prescriptive’ (to the extent that is possible in a non-statutory plan). This underlines HE/DIO’s concern that the Neighbourhood Plan Modifications appear to have the effect of attributing statutory weight to the content of a non-statutory SPD, when that content is not justified or deliverable. The inevitable and unacceptable consequence of inclusion of New Policy INF01 is that an outline planning application that did not show the alignment of the North-South Link Road (or, indeed any other road infrastructure) precisely as per the alignment in the Strategic Masterplan SPD would apparently be in conflict with the Development Plan (by virtue of New Policy INF01).

For these reasons, HE/DIO **STRONGLY OBJECT** to New Policy INF01 and Modification [D-A10] and proposes that the Policy is deleted.



<p><b>[D-A11]</b></p>	<p>HE/DIO notes that New Policy INF01 (1) no longer includes reference to the North-South Link Road in the way that Reg. 16 draft Policy INF02 did. HE/DIO <b>SUPPORT</b> the deletion of Reg. 16 draft Policy INF02.</p> <p>At the same time, HE/DIO has objected to Modification [D-A10] given that the North-South Link Road is referred to in the SPD, so that Modification [D-A10] effectively reintroduces it to New Policy INF01 (1), albeit without saying that it is pre-requisite to development on the Barracks site. We have said that there is no need to do this, having regard to the content of Policy 3.1 in the Part 2 Local Plan.</p> <p>HE/DIO suspects that New Policy INF01 (2) may also be referring to the North-South Link Road in its reference to “<i>access roads</i>.” In HE/DIO’s opinion, New Policy INF01 (2) must explain what it means (and does not mean) when referring to “<i>access roads</i>” otherwise its application in the Development Management context is uncertain.</p> <p>New Policy INF01 (2) A is also imprecise and also suggests that new access roads should not be supported if they do not have the potential to relieve congestion on Stapleford Lane. This is surely not what was intended given that, for example, the southern part of the Chetwynd Barracks site could be served by more than one access road. However, if an access from Swiney Way was to serve a discreet part of the Barracks site, and that was entirely neutral in relation to traffic conditions on Stapleford Lane, strict application on New Policy INF01 (2) A. could mean that access would not be supported (unless New Policy INF01 (2) A is to be read as operating independently of New Policy INF01 (2) A.)</p> <p>For this reason HE/DIO <b>OBJECT</b> to New Policy INF01 (2) A. as drafted and propose that it be deleted or at the very least reworded. HE/DIO note also that the policy pre-supposes that congestion levels on Stapleford Lane are unacceptable, yet no evidence is presented to confirm this.</p>
<p><b>[D17]</b></p>	<p>Whilst HE/DIO supports the deletion of Reg. 16 draft Policy INF02 and its reference to the North-South Link Road, HE/DIO notes that the supporting text still says that “<i>A new north-south road is considered essential to assure the successful delivery of circa 1500 dwellings on Chetwynd Barracks.</i>”</p> <p>HE/DIO of course rely on their objections to the Reg. 16 draft Plan in this regard (and refer to paras 22-33 of their 4 August 2022 comments, and also to paragraph 55 and paragraphs 76-81). We are mindful also of the entirety of the Examiner’s comments on page 3 of the “Annex – Proposed Scope of the Potential Modifications” (under the Heading ‘Section 9 – the Vision for the Neighbourhood Area’) including that paragraphs 10.15 – 10.19 of the Reg 16 draft Plan “<i>should be modified so that regard is had for the concerns about deliverability, and the outcome of discussion with the transport authorities and key stakeholders.</i>” The Examiner said that “<i>Paragraph 10.16 and Guideline 05; and Policy INF02, should also be modified, for similar reasons</i>” and the direction in relation to Reg. 16 draft Policy INF02 on page 8 is clear. The continued references to these matters within the Justification, as amended by [D17], conflict with the indication of the scope of changes needed, and so HE/DIO <b>OBJECT</b> to these references.</p>

	<p>HE/DIO notes also the insertion of new text in the Justification which says that the development of the area “requires radical changes to the current road infrastructure to cope with the significant increase in traffic that will be generated.” In the Reg. 16 draft Plan this text sat beneath an OBJECTIVE on page 67 and formed neither Policy nor ‘Justification.’ It is now said to comprise Justification for Policy INF01, but no evidence of the extent of the “radical change” that is said to be required is given.</p>
<p><b>[D-A13] and [D18]</b></p>	<p>Modified Policy INF02 (2), which was Reg.16 draft Policy INF03, states that “Separated lanes should be included within new green corridors where practical and feasible (see also ENV03).”</p> <p>HE/DIO strongly support the use of Active Travel Measures within new development, but has the following minor comments.</p> <ul style="list-style-type: none"> <li>• First, “separated lanes” is presumably a reference to cycle lanes that are not on-street. HE/DIO assume that the Forum would agree that, where that is not practical or feasible, on-road lanes may be appropriate, and may be preferable to no provision at all. HE/DIO <b>PROPOSE</b> that this be set out in the Justification at [D18].</li> <li>• Second, it may not be desirable to include segregated pedestrian/cycle lanes in all Green Corridors, or in all parts of Green Corridors, so that HE/DIO <b>PROPOSE</b> that this be amended to say “where practical, feasible and appropriate.”</li> </ul>
<p><b>[D-A16]</b></p>	<p>HE/DIO supports measures to maximise the use of public transport, including buses, and so has no objection to Modified Policy INF03 (2). HE/DIO did not object to Reg. 16 draft Policy INF07, which covered the same issue, but notes that the wording of New Policy INF03 (2) is slightly different. HE/DIO <b>PROPOSE</b> that it be amended to read that;</p> <p><i>“Major development should in its design, layout and connectivity, encourage and where appropriate enable the routing of bus services through it and towards the potential public transport interchange.”</i></p>
<p><b>[D-A18]</b></p>	<p>Policy INF04 (1) is a New Policy and says that “Major development should provide off-street parking to meet its needs, subject to demand management measures, including secure cycle parking and EV charging points (see also URB03).”</p> <p>New Policy INF04 (1) is imprecise in its drafting. It is not clear what is meant by “subject to demand management measures” or to what extent such measures may impact on the need to provide off-street parking. In the absence of clarity HE/DIO <b>OBJECT</b> to this wording and proposes that it be removed.</p> <p>New Policy INF04 (1) also requires secure cycle parking and EV charging points. Whilst HE/DIO has no issue with this as a matter of principle, the policy is not capable of application on a consistent or rational basis given that it does not say what level of provision is expected. The Forum has not put forward any standards for consideration at any earlier stage in the plan-making process, and so HE/DIO <b>OBJECT</b> to the policy as drafted and suggests that it should either</p>

	be amended to refer to provision being “consistent with the relevant Broxtowe Borough Council standards and policies at the time that the application for development is determined” or that it should be deleted.
<b>[D-A20]</b>	Modified Policy HAS01 (1) is substantively similar to the first sentence of Reg. 16 draft Policy HAS01 and, on the basis that HE/DIO did not object to that part of the Reg. 16 draft Policy HAS01, HE/DIO do not object to Modified Policy HAS01 (1). HE/DIO wonders, however, on reflection, whether Policy HAS01 (1) might say that “at least 30% of properties (or any other percentage that is defined in any future version of the Part 1 Local Plan or Part 2 Local Plan) should be ‘Affordable, including a mix of .... etc.”
<b>[D-A21]</b>	Modified Policy HAS01 (2) has removed reference to present proportions of owner occupied, affordable rented and market rented homes as a relevant factor in the determination of housing mix on major development. HE/DIO <b>SUPPORT</b> Modification [D-A21] as a consequence.
<b>[D-A22]</b>	Whilst HE/DIO recognise that Modified Policy HAS02 no longer requires that development is delivered to comply with the green design and sustainability standards that it sets out (compliance is only to be “supported,” which is far more appropriate) it remains the case that Modified Policy HAS02 replicates the Building Regulations and para 154 (b) of the NPPF so that HE/DIO continues to <b>OBJECT</b> and propose that it be either amended to cross refer to the NPPF and be in accordance with it, or it should be deleted.
<b>[D26]</b>	For the reasons set out in our comments on [D3] above, HE/DIO <b>OBJECT</b> to the inclusion of [D26] and proposes that it be deleted. Again, this does not mean that HE/DIO does not agree with the aspiration to deliver communities that minimise energy use (indeed HE/DIO support that objective) but HE/DIO is concerned about the weight to be attached to it.
<b>[D-A23]</b>	Whilst the Forum has proposed Modifications to Policy HAS03 (formerly Reg. 16 draft Policy HAS04), those do not address HE/DIO’s concerns with Reg. 16 draft Policy HAS04, which are set out at paragraphs 86 and 87 of their 4 August 2022 representations so that HE/DIO continues to advocate its deletion.
<b>[D-A24]</b>	The Forum has proposed Modifications to Reg. 16 draft Policy HAS07 (now Modified Policy HAS04) which strengthen its wording. Modified Policy HAS04 now says that on-site construction times “should” be minimised whereas Reg. 16 draft Policy HAS07 required that developers “demonstrate how they intend to minimise on-site construction times ... etc.” Whilst HE remains supportive of the development of effective MMC, given recent events in the MMC industry, any strengthening of policy should be avoided. In any event it remains HE/DIO’s view that other issues such as sales rates may have an equal impact on development programme. Whilst HE/DIO <b>SUPPORT</b> the inclusion of the words “where appropriate,” they <b>OBJECT</b> to the insertion of the word “should” and continue to believe that the Policy should only advocate that developers should give consideration to the use of MMC.

<p><b>[D-A25]</b></p>	<p>Modified Policy URB01 (1) includes some slight amendments to Reg. 16 draft Policy URB01 by suggesting some of the types of private amenity space that may be provided with new homes.</p> <p>It differs from Reg. 16 draft Policy URB01 as that version required the provision of private amenity space <i>“wherever possible.”</i> HE/DIO <b>OBJECT</b> to the removal of that wording, because it is possible that some apartments may not have access to private amenity space (particularly if delivered in retained buildings), but on a site such as Chetwynd Barracks which will include very substantial areas of high quality public open space, and comprising a variety of typologies, all residents will have access to shared and public amenity space.</p>
<p><b>[D-A26]</b></p>	<p>Modified Policy URB01 (2) is different from Reg. 16 draft Policy URB01 to which HE/DIO did not object, which said simply that the design of new development <i>“should minimise overlooking.”</i> However, Modified Policy URB01 (2) takes a different approach and says that <i>“Residential development should ensure privacy by: A. avoiding development significantly taller than surrounding development; and B. designing to avoid direct overlooking between properties.”</i></p> <p>Whilst HE/DIO understands the objective, the wording of A. may be problematic on a site such as Chetwynd Barracks, where parts of the site are subject to significant slopes and changes of levels. This does not mean that care need not be taken to avoid impacts on privacy by virtue of overlooking, but HE/DIO does not think that the wording of A. is appropriate in these circumstances. On balance, HE/DIO <b>OBJECT</b> to Modification [D-A26] and propose that similar wording to that in the Reg. 16 draft Policy URB01 be retained.</p>
<p><b>[D-A30]</b></p>	<p>Modified Policy URB03 (2) is similar to Modified Policy INF04 (1). HE/DIO <b>OBJECT</b> to Modified Policy URB03 (2) for the same reasons and in the same terms as per our comments on the relevant part of Modification [D-A18] above.</p>
<p><b>[D-A31]</b></p>	<p>Modified Policy URB04 (1) is derived from Reg. 16 draft Policy URB04. HE/DIO <b>SUPPORT</b> the changes that have been made to remove former paragraph b), and <b>SUPPORT</b> the reference to assessment against Building for a Healthy Life.</p> <p>HE/DIO notes the reference also to <i>“local design codes.”</i> HE/DIO wish to comment in this regard as follows;</p> <ul style="list-style-type: none"> <li>a) HE/DIO, BBC and the Forum have recently contributed to the East Midlands Development Co Pathfinder strategic and site-level Design Code. That has been submitted to DLUHC but there is no programme for it to be taken forward, nor is it clear whether it may be taken forward by BBC as SPD, as a Supplementary Plan, or as part of the review of the Part 2 Local Plan. As and when BBC takes that forward, HE/DIO will contribute to its preparation.</li> <li>b) The Forum has recently consulted on a draft Design Code with strategic Codes covering the whole Neighbourhood Area and with only ‘Chetwynd Central’ being subject to a site-level Code. HE/DIO has yet to comment on the Forum’s Design Code, but notes that the Forum has no authority or remit to prepare a Design Code so that it carries no weight.</li> </ul>

	<p>c) HE/DIO's outline planning application will be supported by a Design Code that will be subject to discussion with key stakeholders and consulted upon as part of the application process.</p> <p>There is no district-wide Design Code in place to which any weight should be attached at present, and may not be by the time applications for major development are submitted and determined (although the HE/DIO Chetwynd Barracks Design Code will be submitted with its application for Chetwynd Barracks). HE/DIO <b>PROPOSE</b> therefore, that Modified Policy URB04 (1) is revised to refer to;</p> <p><i>"... any Local Design Code that may have been adopted by the LPA at the time that applications for major development are determined, with the weight to be attached to that Local Design Code to be determined by whether it is a statutory or non-statutory Code."</i></p>
<p><b>[D-A32]</b></p>	<p>HE/DIO understand the motivation behind the inclusion of New Policy URB04 (2). HE/DIO are concerned, however, that it is not drafted so that it would be capable of consistent application in the development management process. For example;</p> <ul style="list-style-type: none"> <li>• HE/DIO does not know how <i>"Innovative &amp; creative design"</i> is to be defined which is critical as the wording suggests that is a pre-requisite to support.</li> <li>• Moreover, HE/DIO does not know how or who will reach a conclusion on whether design is <i>"innovative"</i> or <i>"creative"</i> enough to be supported.</li> <li>• HE/DIO does not think proposals should only be supported where they <i>"complement the existing context."</i> Whilst context is important, it may equally be desirable that proposals depart from the vernacular.</li> <li>• The same is true of references to proposals being <i>"compatible"</i> with the surrounding area or <i>"appropriate"</i> to its setting.</li> </ul> <p>HE/DIO <b>PROPOSE</b> that, if the text within URB04 (2) is retained, it should be taken out of the Policy statement and included in the Justification text.</p>
<p><b>[D-A41]</b></p>	<p>Modified Policy LCH01 combines elements of Reg. 16 draft Policies LHC01 and EMP05.</p> <p>We have said in relation to Modification [X10] that HE/DIO understands why the Modifications include reference to <i>"local centres"</i> but have noted that the Part 1 Local Plan includes definitions of District and Local Centres, and Centres of Neighbourhood Importance, and that the difference between them may not be great. We have noted that whilst the 'centres' on Chetwynd Barracks and the SLG may fall within the definition of 'Local Centre' in the glossary to the Part 1 Local Plan, they may not, having regard to the relevant content of Policies 3.1 and 3.2 of the Part 2 Local Plan. We have suggested that one way of covering this would be to include a note in the Glossary to the Neighbourhood Plan to the effect that the reference to 'local centre' is not linked to the definition in the Local Plan and that the scale and mix of uses in the centres within the Barracks and SLG sites will be determined within the planning applications for those sites. If that is taken on board, HE/DIO would not need to comment on the use of the term "local centre" in Modifications Policy LHC01.</p> <p>That aside, HE/DIO <b>SUPPORT</b> the wording of Modification [D-A41].</p>

<p><b>[D-A42]</b></p>	<p>HE/DIO can see that the Forum wishes to ensure that the 'local' centre contains a diversity of use, and HE/DIO shares that ambition. However, Modified Policy LHC01 (2) refers only to <i>"retail, employment"</i> and <i>"incorporated residential dwellings."</i></p> <p>This seems an unnecessarily narrow definition. Moreover, HE/DIO are concerned that there may be very good reasons why some uses are not included within the 'local centre' but are better provided elsewhere within the new community. It is important also that the content of policy does not act in such a way that it will constrain HE/DIO's development partner from securing a viable 'local centre' in due course according to market interest and conditions at the time that it is delivered. HE/DIO will include an appropriately flexible provision in its outline planning application. At the same time, HE/DIO has said in its comments on the Reg. 16 draft Plan (para 51 of their letter dated 4 August 2022) that it agrees that the 'local centre' may be best located in the eastern part of the site and related to the Memorial Gardens. For these reasons, HE/DIO <b>OBJECT</b> to the current drafting and <b>PROPOSE</b> that the wording be revised to say that;</p> <p><i>"The Chetwynd Barracks local centre should include a range of 'main town centre' uses including those uses that are included in Use Class E, as well as Class C3 if appropriate, according to the scale and nature of the local centre proposals. It is possible that some of the uses that are required to be provided by virtue of the content of Policy 3.1 of the Part 2 Local Plan may be delivered outside the 'local centre' but within the Barracks site, so as to (i) meet the legitimate locational and operational requirements of future occupiers, and (ii) where that would support the future use of any buildings that may be retained and converted to alternative uses. The local centre should preferably be located next to the Memorial Gardens."</i></p> <p>Criteria A – D should be deleted for similar reasons (i.e. it is premature to prescribe such matters).</p> <p>Criterion E should be deleted because it is not necessary given that the Memorial is listed so that development close to it must respect its status.</p>
<p><b>[D-A44]</b></p>	<p>Modified Policy LHC02 Heritage Assets is a New Policy according to page 27 of the Explanatory Document. HE/DIO <b>OBJECT</b> to the wording of the requirement in Modified Policy LHC02 that development should <i>"preserve or enhance"</i> its heritage value. This is because;</p> <ul style="list-style-type: none"> <li>• there are no statutorily listed buildings or structures on the site (with the exception of the Grade II Listed Memorial);</li> <li>• the site does not comprise or include any part of any Conservation Area;</li> <li>• the site does not contain any locally listed buildings (although BBC is currently working with the Beeston Civic Society and other stakeholders in relation to the preparation of a Local Heritage List, which <u>may</u> result in some buildings being confirmed as non-designated heritage assets (NDHAs)).</li> </ul> <p>It is inappropriate in these circumstances to use the words <i>"preserve"</i> and <i>"enhance"</i> other than in relation to the Memorial. We say this because s.66 of the Listed Buildings Act 1990 confirms a general duty as respects listed buildings to have <i>"special regard to the desirability of <u>preserving</u> the building or its setting"</i> and s.77 includes a similar general duty in respect of Conservation Areas to give <i>"special attention"</i> to <i>"the desirability of <u>preserving</u> or <u>enhancing</u> the character or appearance of that area."</i></p>

	<p>Put another way, Modified Policy LHC02 (1) sets a bar that is inappropriately high, other than in relation to the listed Memorial.</p> <p>For these reasons, and for those set out at paragraphs 92-95 of HE/DIO's representations dated 4 August 2022, HE/DIO <b>OBJECT</b> to Modified Policy LHC02 (1) and propose that it be amended as per the Reg. 16 draft Policy LHC02 to say that "<i>Development of the Barracks should respect its heritage.</i>"</p> <p>Whilst the Neighbourhood Plan might assert that the buildings and structures in Modifications Policy LHC02 (2) are NDHAs, none are locally listed, and it is for the LPA (not the Neighbourhood Forum) to designate buildings as such. That being so, the Neighbourhood Plan should do no more than acknowledge that the NPPF is clear at paragraph 203 that the impact of development on an NDHA is to be "<i>taken into account.</i>" Paragraph 203 stops well short of implying any general duty to have special regard to the desirability of preserving or enhancing NDHAs. This is a further and compelling reason to revise LHC02 (1) to remove reference to any such test so as to ensure compliance with Basic Condition (a).</p>
<b>[D-A45]</b>	<p>Modified Policy LHC02 (2) is new in the sense that the buildings that are named within it were previously named in the supporting text in the Justification to Reg. 16 draft Policy LHC02 and in Appendix II. HE/DIO <b>OBJECT</b> to the promotion of the buildings named in LHC02 (2) into policy on the basis that;</p> <ul style="list-style-type: none"> <li>• the Memorial need not be included in policy, given that it is protected by the provisions of s.66 of the Listed Buildings Act 1990, and</li> <li>• buildings B to H, J and K are not locally listed at present, and may or may not appear on any Local Heritage List in due course; and</li> <li>• the Forum has provided no evidence in the Neighbourhood Plan as to the criteria that have been applied to its consideration of the suitability of buildings for consideration as non-designated heritage assets.</li> </ul> <p>HE/DIO would not object to the buildings being named in supporting text but <b>OBJECT</b> to their inclusion in a list where the reason for inclusion is so that development that causes harm to them "<i>will not be supported.</i>" As noted, this goes far beyond the approach that is set out at paragraph 203 of the NPPF and is unjustified as a consequence, so that the effect of the Modifications is to go outside compliance with Basic Condition (a).</p>
<b>[D-A46]</b>	<p>Modified Policy LHC02 (3) says that consideration should be given to the recording of any heritage asset that is lost. Whilst HE/DIO would not object to this as a matter of principle, and would be content if it remained in LCH02 if modified as HE/DIO propose, we would observe that it seems superfluous in the context of a policy that does not contemplate that any heritage asset will be lost.</p>
<b>[D41]</b>	<p>There are some errors in the Justification text.</p> <ul style="list-style-type: none"> <li>• There is only one designated heritage asset on the site but the text refers to "<i>assets</i>" so this should be <b>corrected</b>.</li> <li>• The reference to the setting and group value of NDHAs is wrong (the NPPF does not support such an approach) and should be <b>deleted</b>.</li> <li>• For reasons given earlier, any reference to the non-statutory Strategic Masterplan SPD should be <b>removed</b> from the Justification.</li> </ul>

<p><b>[D47]</b></p>	<p>For reasons set out in relation to [D-A2] HE/DIO is concerned with any reliance being placed on the conclusions of the 2016 Playing Pitch Strategy given that it is “out-of-date” so that there is no up-to-date assessment of the need for playing pitches in the Borough. Consequently, HE/DIO does not agree with the conclusion that the Barracks playing field are ideally suited to accommodate a floodlit AGP or the other facilities that are mentioned. That will be tested by an up-to-date assessment at the appropriate time. The first and third paragraphs of the Justification should be <b>deleted</b>.</p>
<p><b>[D-A55]</b> <b>[D-A56]</b> <b>[D-A57]</b></p>	<p>Modified Policy EMP02 parts (1), (2) and (3) are very similar to Reg. 16 draft Policy EMP02. It has been split into three separate parts, but each part is substantively the same as the corresponding text in the Reg. 16 draft Policy.</p> <p>On this basis, HE/DIO relies on the comments at paragraphs 98-102 of their 4 August 2022 representations, but <b>SUPPORT</b> the inclusion in EMP02 (1) of the recognition that buildings may be re-used only where “<i>feasible and viable</i>.”</p> <p>However, HE/DIO <b>PROPOSE</b> that the text be reworded to refer to the development of “<i>commercial uses</i>” as opposed to “<i>property</i>” and that the word “<i>first</i>” be added before the word “<i>seek</i>.”</p> <p>If EMP02 (2) were to remain (despite HE/DIO’s objections to it) HE/DIO would at least <b>SUPPORT</b> the inclusion of the words “<i>if feasible and viable to do so</i>.”</p>