CHAPTER 3: ENVIRONMENT

3.003			***The Environment Introduction***	
1135	2388		Mr I Moss	House Builders` Federation
3.003			***The Environment Introduction - Rephrasing of reference to environmental protection and addition of references to environmental enhancement and sustainable development***	
601	4548	R51	Mr S Rufus	Nottinghamshire Wildlife Trust
3.012	***R55***		***The Environment Introduction - Deletion of paragraph referring erroneously to plan format***	
601	4549	R55	Mr S Rufus	Nottinghamshire Wildlife Trust
3.013	***R56***		***The Environment Introduction - Rephrasing of references to opencast Coal and Minerals Local Plan***	
1486	5399	R56	Mr J Gough	RJB Mining (UK) Ltd

Summary of Objection Issues

3.3 The Environment: Introduction

1135/2388 House Builders' Federation

1. The paragraph does not refer to the four broad objectives of government policy on sustainable development as set out in PPG12 Development Plans.

Council's Response:

2. This paragraph draws attention to the emphasis given to sustainable development throughout Government guidance without referring to individual PPGs. It is not considered necessary or appropriate to restate information contained within PPGs.

601/4548 Nottinghamshire Wildlife Trust

3. While we support the amendment for encouraging environmental enhancement and sustainable development, we feel that the recognition given in the original text of the growing awareness and concern for the environment should be retained. It is important that the council acknowledges the importance of the public's views on this matter, and the awareness of the trend in opinion should be used to influence the development of the Local Plan. With this in mind, we feel that the council should be clearly stating its intention to not only meet all sustainable development targets and indicators, but to exceed them wherever possible.

4. We recommend that paragraph 3.3 retain its reference to growing public concern, and states the council's intention to meet their expectations.

Council's Response:

5. The Council considers that the amended text accurately reflects the emphasis given in many of the recent PPGs to environmental protection and sustainable development. However, the deleted reference to the public's awareness of environmental issues has been transferred to the new paragraph 3.1. Note also that the local plan policies will be used to assess planning applications; they are not "targets" to be exceeded or otherwise.

Inspector's Conclusion

1. Paragraph 3.3 simply refers to government Planning Policy Guidance Notes. It does not seek to highlight any particular one and it would be inappropriate to do so here let alone to quote from PPG12. Specific reference to sustainable development is contained in Chapter 2 where I recommend that suitable reference be made to the advice in PPG12.

2. New paragraph 3.1 introduced by R50 highlights increasing public awareness of environmental issues. There is no need to duplicate this point in paragraph 3.3, which stresses the greater emphasis to environmental protection and enhancement and to sustainable development. This paragraph deals with PPGs and is not the place for the Council to state its intentions towards sustainable development targets and indicators.

Recommendation

3. I recommend that no modification be made to the RDDP in respect of these objections.

3.12 The Environment: Introduction

601/4549 Nottinghamshire Wildlife Trust

1. We are unsure of the reasons for the deletion of this paragraph from the text. We feel there is real value in stressing the value of access to open space and wildlife areas and recommend that this be retained in the Local Plan. We recommend the paragraph be reinstated.

Council's Response:

2. This paragraph was out of context as these issues are now covered by Chapter 8: Recreation and Community Facilities. However, the Council remains committed to improving and extending opportunities for public access into, and enjoyment of, the countryside. This is reflected in objective e/q for the Environment chapter.

Inspector's Conclusion

1. Paragraph 3.12 in the FDDP was misplaced as policies relating to footpaths and other recreation activities in the countryside are dealt with in Chapter 8 later.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.13 R56 The Environment: Introduction - Rephrasing of references to opencast coal or Minerals Local Plan

1486/5399 RJB Mining (UK) Ltd

1. Revision R56 refers to opencast coal extraction having a severe environmental impact. In order to provide a more balanced assessment of opencast coal operations it is considered more appropriate to refer to any impacts as being temporary in nature and outweighed in the long term by benefits to the local economy and improvements to the local environment through effective restoration strategies. If this is not considered acceptable the Company would suggest that R56 is replaced with the original wording of paragraph 3.13, which provides a more accurate description of the relationship between the Local Plan and the Minerals Local Plan.

Council's Response:

2. The Council considers that "Opencast coal extraction can have a severe environmental impact especially on residential amenity, landscape and wildlife" is a legitimate statement. Chapter 1: The Environment aims to protect and enhance the urban and rural environments. Within this context the Council considers that it is right to be clear about the impacts opencast coal extraction may have. The Council also considers that this paragraph gives a clear and accurate description of the relationship between the Local Plan and the Minerals Local Plan.

Inspector's Conclusion

1. This revised paragraph seeks to provide an introduction to the policies of the Nottinghamshire Minerals Plan. Whilst it seems beyond dispute that opencast coal working can have a severe environmental impact, it would be preferable to delete the third sentence rather than to extend this paragraph and lengthen the RDDP with a fuller description of the possible pros and cons of this form of mineral working. The fourth sentence should be modified accordingly by substituting the term "the" for the terms "these and other".

Recommendation

2. I recommend that the RDDP be modified by deleting the third sentence of paragraph 3.13. The fourth sentence should be modified by substituting the term "the" for the terms "these and other".

ENVIRONMENT POLICY BACKGROUND

Objections

3.XX R62??

3.15			***Government Guidance***	
1169	2582		Cllr M Rich	
3.55			***The 1994 Broxtowe Local Plan***	
1169	2584		Cllr M Rich	
3.56			***Other policy background***	
601	2587		Mr S Rufus	Nottinghamshire Wildlife Trust
601	2589		Mr S Rufus	Nottinghamshire Wildlife Trust
3.56	***R63***	***Other policy background - Deletion of reference to incineration***		
598	4357	R63	Mr I Brown	CPRE - Broxtowe Group

Summary of Objection Issues

3.15 Government Guidance

1169/2582: M Rich

1. Does PPG1 include the word 'feasible'?

Council's Response:

2. Whilst PPG1 does not use the word 'feasible', it is clear that previously developed sites need to be feasible for development. For example, it is particularly important that sites are sustainable in terms of their relationship to existing development. See paragraph two of the attached letter to Councillor Rich dated 15 December 2000.

Inspector's Conclusion

1. All sites put forward for development in the RDDP should be feasible and it could be misleading to attach this label to particular categories of sites. In any case, this paragraph is a broad summary of PPG1.

Recommendation

2. I recommend that the RDDP be modified by deletion of the term "feasible" in paragraph 3.12.

3.55 The 1994 Broxtowe Local Plan

1169/2584: M Rich

1. If we now fail to identify the three formerly 'mixed use' areas, what do they become? A 'planned grouping of adjoining compatible uses' perhaps? What does the term 'encourage mixed development where appropriate'? (Para 3.61 objective e/n).

Council's Response:

2. A 'planned grouping of adjoining compatible uses' refers to a mixed-use development, for example shops with residential units above. Those areas formerly 'mixed use' areas, will now lose that designation and become like any other area without a specific designation. The term 'encourage mixed development where appropriate' relates to how informal enquiries will be responded to, and how applications will be assessed. See paragraph three of the aforementioned correspondence.

Inspector's Conclusion

1. This paragraph describes the 1994 adopted Local Plan and the reasons for the change of treatment of these former mixed use areas in the RDDP. BBC are confident that other policies in the RDDP will minimise the further spread of commercial uses. As a general rule it is advisable to exclude any superfluous policies as this creates a clearer and more concise plan with less scope for misunderstandings and conflict. The term mixed use in the RDDP is used in a different context to that of the1994 Plan. Government policy encourages mixed

uses and mixed development where appropriate. The range of appropriate uses and development will depend upon local circumstances.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.56 Other Policy Background

601/2587: Nottinghamshire Wildlife Trust

1. This section should refer to other strategies in the Borough. In order to ensure that all relevant strategies, both current and emerging, are given full weight, and that sustainable development continues to be at the heart of the plan, we feel that this section of the Plan should refer to the following strategies: Broxtowe Local Agenda 21 Strategy; Broxtowe Nature Conservation Strategy; Nottinghamshire Biodiversity Action Plan; Department of the Environment (1994) - 'Sustainable Development: The UK Strategy; HMSO, Urban Task Force (July 1999) - 'Towards an Urban Renaissance'; DETR (October 1998) - 'Planning for Sustainable Development, Towards Better Practice'; DETR (May 1999) - 'A Better Quality of Life: A Sustainable Development Strategy for the UK'.

Council's Response:

2. There will inevitably be many publications from Government and other organisations that will be relevant planning considerations. It is not necessary to name each of these publications. However certain strategies influence the whole of the Local Plan; these strategies are referred to in Chapter 1: Introduction paragraph 1.6.5-1.6.8. Other strategies are particularly relevant for a particular policy and are therefore referred to in the individual reasoned justifications. DETR documents/papers have generally not been referred to as they represent broad policy background, rather than strategies specific to the Broxtowe Borough Council area.

601/2589: Nottinghamshire Wildlife Trust

3. Generally support moves to promote the use of renewable energy resources. However the increased incineration of waste is not desirable, and this line should not be pursued, as it is more important to reduce waste arising and increase recycling and composting. The Government now acknowledges this, with recent guidance splitting the 'Recovery' option of the waste disposal hierarchy into 'Materials Recovery' and 'Energy Recovery', with the former placed above Energy Recovery in the hierarchy. Only landfill is now lower in the Waste Disposal Hierarchy than Energy Recovery.

Council's Response:

4. The reference to increased incineration has been deleted in the Revised Deposit Draft (R63) Waste disposal issues are dealt with by the County Council, and are not the responsibility of this plan.

3.56 R63 Other Policy Background - Deletion of reference to incineration

598/4357: CPRE

5. We feel that more clarification should be given regarding recycling etc, then increased incineration, which is preferable to landfill (i.e. recycling is preferable to increased incineration but incineration is preferable to landfill).

Council's Response:

6. The comments made by the CPRE partly relate to recycling not to the change to the text made by R63. The text relating to incineration has been deleted, as the Council is not responsible for waste issues; these issues are dealt with by the County Council.

Inspector's Conclusion

1. Paragraph 3.56 concerns renewable energy and refers specifically to the main findings of a Regional Study. It would be misleading to include less relevant references, details of more general DETR and HMSO publications and the role of other initiatives such as waste re-cycling. Paragraph 3.58 already refers to the Local Biodiversity Action Plan. It would gain no added status to duplicate this in this paragraph. Chapter 1 also refers to other policy background.

2. The County Council's Waste Local Plan sets out policies for waste minimisation, waste re-use and recycling, proposals for incineration and for landfill. It is not for the RDDP to set out any views on such matters. However, incineration of waste in Nottinghamshire already produces heat and energy and any increase in incineration capacity has the potential to increase the contribution from this source. Nevertheless, I see no objection to R63, which deletes reference to increased incineration of waste.

Recommendation

3. I recommend that no modification be made to paragraph 3.56 of the RDDP in respect of these objections.

AIMS AND OBJECTIVES

Objections

3.060			***Aims & Objectives***	
601	2565		Mr. S Rufus	Nottinghamshire Wildlife Trust
3.061			***Aims & Objectives***	
1178	2752			Metropolitan & District Developments Ltd. Shoosmiths Solicitors
1429	3756			British Wind Energy Association Brodies W.S.
598	2652		Mr. I Brown	CPRE - Broxtowe Group
1468	3927		Miss A Plackett	English Heritage East Midlands Region
601	2612		Mr. S Rufus	Nottinghamshire Wildlife Trust
108	1621		Mr. M Spencer	

3.61e/b?

3.061e/h		***R65***	***Aims and objectives - Addition of reference to sites of archaeological interest***	
1468	5392	R65	Miss A Plackett	English Heritage East Midlands Region

3.062		***R66***	***Aims and Objectives – Rephrasing of reference to implementation of objectives***	
598	4415	R66	Mr. I Brown	CPRE - Broxtowe Group

Summary of Objection Issues

3.060 Aims and Objectives

601/2612 Nottinghamshire Wildlife Trust

1. Broadly support this paragraph, as the text is positive in establishing good principles for the Local Plan. However we feel that some changes in the wording of this paragraph will be needed to ensure that the overall strategy of the plan clearly gives due weight to sustainable development.

Council's Response:

2. The Council considers that considerable weight has been given to achieving sustainable development. We do not consider that the strategic aims need any amendment.

Inspector's Conclusions

1. As the third - of this paragraph adopts the principle of sustainability, it is difficult to understand what more the Trust desires. This and the subsequent paragraph set out the aims and objectives of the RDDP in respect of the environment. They do not attempt to describe the overall strategy of the plan, which seeks to resolve conflicts and priorities between these and other aims and objectives of the plan in particular local circumstances. Only reading the policies and proposals of the Plan as a whole will provide a view of the overall strategy adopted.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.061 Aims and Objectives

1178/2752 Metropolitan & District Developments Ltd

1. Objective e/t is to protect the countryside from inappropriate development, which is different objective from protecting the land on the basis of its quality and versatility for agricultural purposes. This should be a separate and distinct objective of the Plan.

Council's Response:

2. The Council considers that protecting the countryside from inappropriate development is a good general objective for the Environment Chapter. Whilst the bases for protection will be various, and can include land quality, the broad objective applies generally. The Council does not consider that a separate objective is required - the reasoned justification of E19 "Agricultural Land Quality" provides all the necessary background and explanatory information.

1429/3756 British Wind Energy Association

3. The BWEA submit that paragraph e/b should, in line with PPG22 and the recently published Conclusions of the Dept of Trade and Industry renewable energy consultation exercise (referred to in their objection to policy E23), also refer to 'and encourage use of renewable resources'.

Council's Response:

4. The suggested phrase has been added to the end of objective e/b. Refer to amendment R64.

598/2652 CPRE

5. Derelict or underused land should be checked in order to ascertain if there is wildlife importance. Add to objective e/s: 'Provide opportunities for enhancement of derelict or other underused land where this does not conflict with objective e/p'.

Council's Response:

6. This section is intended to give broad objectives for the environment chapter. Objectives e/s and e/p will not normally conflict with each other. However, where a conflict does arise a balanced assessment will need to be made with regard to the objective's respective merits.

599/2703 Nottinghamshire County Council

7. Conditional support: The objectives are supported but could be strengthened by adopting the Energy Hierarchy set out in the Local Government Association's Position Statement on Energy Policy 1999. The need to protect and preserve important archaeological sites is also a valid and important objective.

Council's Response:

8. Objective e/b has been expanded to encourage the use of renewable resources and objective e/h has been expanded to include sites of archaeological interest. Refer to amendments R64 and R65.

1468/3927 English Heritage

9. Objective e/h should be reworded as follows: "Preserve and enhance the character and setting of conservation areas and protect listed buildings and other features of historic and archaeological interest". In objective e/p it is not clear what is meant by "environmental" and whether it refers to policies protecting and enhancing landscape character. Objective e/s should be reworded as follows "Provide opportunities for the enhancement and regeneration of derelict or other underused land and buildings".

Council's Response:

10. Objective e/h has been expanded (refer to amendment R65). Objective e/p relates to areas of recognised significance such as SSSIs and mature landscape areas etc. The Council does not consider that objective e/s needs amendment.

601/2612 Nottinghamshire Wildlife Trust

11. The sustainable development objective could be furthered by revisions to the wording of some of the points.

Council's Response:

12. Changes have been made to objectives e/b and e/h (refer to amendments R64 and R65).

108/1621 Mr M Spencer

13. Object to e/a to e/h. No provision made for the implementation of traffic calming/reduction/exclusion measures.

Council's Response:

14. Measures including traffic calming and exclusion measures are the responsibility of Nottinghamshire County Council and do not require new land allocation. As such these works are not covered by policies within the Broxtowe Local Plan. The Local Transport Plan, which is drawn up annually, covers this type of work.

3.061e/h R65 Aims and Objectives - Addition of reference to sites of archaeological interest

1468/5392 English Heritage East Midlands Region

16. Whilst objection 1468/3927 has been partly met by the addition of the words 'and sites of archaeological interest', we would request that the importance of 'setting' is recognised in the objective.

Council's Response:

17. The Council considers that the broad objective e/h does not require any further expansion.

Inspector's Conclusions

1. Protection of the best and most versatile agricultural land (B&MV) is still an important objective of government policy and is notable for its absence from this list of objectives in contrast to other factors such as ecological areas, conservation areas, archaeological interests and even the more detailed aspect of agricultural diversification. It is poor comfort to point to Policy E19 and its reasoned justification; the same could be said of other objectives of paragraph 3.61. I consider that Metropolitan's objection identifies a significant omission that should be rectified. An additional objective e/u should be included as follows: "Protect the best and most versatile agricultural land from inappropriate development". Development would be inappropriate where suitable alternative sites exist on lower grades of land.

2. The Wind Energy Association's and the County Council's objections should be covered by R64 to e/b.

3. It will depend upon local circumstances whether there is a conflict between proposals for the enhancement of derelict or underused land and the safeguarding of significant environmental and ecological areas. It is for the RDDP to strike the balance where a choice has to be made in particular local circumstances. It would be wrong to accord one particular objective precedence over others at this broad level.

4. R45 introduced reference to sites of archaeological interest, which partly met EH's objection. However, it omits other historic sites and this could usefully be added to e/h as there are a number of these in Broxtowe. However, it is unnecessary to include the term "setting" as EH at one time requested. This should be covered by the general protection of listed buildings and is in any case a statutory duty.

5. Objective e/p is apparently concerned with areas of landscape significance and this more specific term is to be preferred to the more general term "environmental". The term ecological areas is broad enough to cover the detailed areas mentioned by the CPRE and is to be preferred to overburdening an objective with excessive detail.

6. Government policy encourages re-use of derelict and more effective use of underused buildings as well as land and this term should be included in objective e/s. The term enhancement is wide enough to cover a range of activities and needs no amplification.

7. Apart from R64 and R65 I see no need to modify the wording of these objectives to promote sustainable development, which is one of the three main aims of this section.

8. Objectives e/a to e/h cover a range of legitimate environmental issues and e/l supports traffic calming measures in residential areas, which should help to meet Mr Spencer's main concern. However, there seems to be no good reason why such measures should be restricted to residential areas. There are other sensitive areas such as shopping centres, which may merit similar treatment. The term "sensitive areas" should replace "residential areas". The 1990 Act, as PPG12 para 3.2 advises, provides, despite what some objectors might wish, for Local Plans to include policies in respect of the management of traffic as well as the improvement of the physical environment and the conservation of the natural beauty and amenity of the land.

9. I see no case for including the term “enhance” in objective e/d as once requested by the NWT if this does not reflect the Council’s intentions. The term “appropriate” in e/ i is to be preferred to the term “minimising” as the latter implies a Policy choice. An objective is not the place to propound a particular settlement form. Similarly it is inappropriate in an objective to elaborate on some of the means of achievement.

Recommendation

10. I recommend that the RDDP be modified by: including an objective e/u “Protect the best and most versatile agricultural land from inappropriate development"; by including the term "historic" after "archaeological" in objective e/h; substituting the term "landscape" for "environmental" in objective e/p; including the terms "and buildings" after “land” in objective e/s; the substitution of the term "sensitive" for "residential" in objective e/l. Otherwise I recommend that no modification be made in respect of the above objections.

3.062 R66 Aims and Objectives – Rephrasing of reference to implantation of objectives

598/4415 CPRE

1. We object to the words 'work towards', with regard to the intentions of the policies and implementing the objectives, as they weaken the context of the paragraph.

Council's Response:

2. The Council considers that the wording used in paragraph 3.62 is accurate and realistic and has been included in response to an objection by the Government Office to the fact that the objectives cannot necessarily be 'implemented' by the planning system. The Council does not consider that the objectives are weakened by the amendment to wording.

Inspector's Conclusions

1. All the RDDP can do is to work towards the achievement of these objectives. The CPRE perhaps assume that conflicts between objectives will not occur and that all objectives can be met in full. This is clearly not the case and the RDDP has to choose the most appropriate strategy to meet local circumstances. Thus I regard R66 as a reflection of the reality of the situation, not any weakening of intent. Contrary to GOEM's one time objection, the LPA's planning powers could be used to further all the objectives, although they may not be the most influential in respect of some of these.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection

E1 GOOD DESIGN IN THE BUILT ENVIRONMENT

Objections

1381	3469	Ms F Forgham	Government Office for the East Midlands
1439	3784	Mr P Geldart	Country Landowners Association
1106	2133	Mr R Hepwood	Miller Homes East Midlands
1363	3407		Countryside Agency, East Midlands Region
1127	2214	Mrs PN Johnson	Healey & Baker
1388	3611	Ms E Marshall	Environment Agency, Lower Trent Area
1135	2391	Mr I Moss	House Builders` Federation
601	2615	Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

Proposed Inquiry Change IC6:

In the explanatory text for Policy E1 it is proposed to delete the last sentence of paragraph 3.63 in order to avoid any suggestion that good quality development is only required in good quality areas (refer to K6 in Proof 006).

1381/3469 GOEM

1. Policy should be worded positively to avoid confusion. Sub-sections (a), (e), (g) and (h) refer to 'a high standard' with no explanation in the text as to what these high standards are or where they are defined. (This could be in supplementary planning guidance).

Council's Response:

2. The policy has been worded negatively out of necessity, as various other policies would usually also be relevant. The Council considers that it would be misleading to state that if a proposal met the criteria in policy E1 it would be granted – as other policies would often be relevant. However the Council does wish to say that if the criteria in E1 are not met (even if other relevant policies are complied with) planning permission would not be granted.

3. This is a general policy, which relates to many different forms of development. As such the Council would wish to assess every scheme against the criteria in a manner appropriate to that proposal, and not be prescriptive about what is required. Explanatory 'good practice' leaflets will be produced which may help to clarify certain standards.

1439/3784: Country Landowners Association

4. As regards the application of the policy to buildings in rural areas, it is hoped that it will not result in unjustifiably high costs of design.

Council's Response:

5. The various issues relating to design do not necessarily incur greater costs. Moreover, cost issues associated with the quality of a development are not appropriate planning considerations. In any instance good design is necessary in both urban and rural areas.

1106/2133 Miller Homes East Midlands

6. Accept the principle of the policy but object to the wording of paragraph 'h' – 'a high standard of design of open spaces must be achieved within developments'. There may be instances where a development is too small to contain open space within it and cases where it may be provided adjacent to a development or even provided off site completely.

Council's Response:

7. The above concern has been recognised by the revision of this policy and the insertion of the phrase "where provided"(R68). It appears therefore that this objection has been overcome.

1363/3407 Countryside Agency – East Midlands Region

8. The Agency considers that the plan should take a more strategic approach to securing a high standard of design across the borough. At present, Chapter 2 only tackles this issue in respect of housing (policy K3). The special character of villages is not clearly referred to and there is no mention of any village design guides or countryside design summaries. This is a subject, which should be dealt with strategically as it has implications for several of the later topic chapters. It would therefore seem appropriate to move these elements of Policy E1, which deal with design, to a new policy in Chapter 2.

Council's Response:

9. The Council wishes to respond to these points even though they were submitted under cover of a "support". It is intended to expand on the principle embodied in this policy in a series of design leaflets, to positively encourage good practice rather than opting for a philosophy of merely seeking and endorsing acceptable standards. These will cover practice in both rural and urban environments, as the Council does not consider that the issues in its rural areas justify separate treatment. In order to provide clarification in this regard the Council proposes two inquiry changes.

Inquiry Change

10. **The Council has recommended that the title of policy E1 be amended to read "Good Design".**

IC90

11. **The Council has also recommended that the phrase "in both urban and rural areas" be inserted at the end of the third sentence of paragraph 3.63 to read "This policy applies to all kinds of development including new buildings, extensions, fences and other structures in both urban and rural areas".**

IC91

12. The Council considers this is a clear policy and will use it to "reject poor design" as advocated by PPG1. However, this is felt to be an issue, which is best, dealt with at the start of the Environment chapter. Where there are links to other chapters, these are clearly identified in the explanatory text.

13. Whilst the Council has not compiled design guides or countryside design summaries there are Conservation Area statements covering many of the villages.

1127/2214 Healey & Baker

14. This policy is inflexible. Whilst design is recognised as an important consideration in granting permission for new development, flexibility is required when considering each individual development proposal in order to accommodate them in different locations.

Council's Response:

15. The Council will assess every application against the criteria in a manner appropriate to that proposal. All the criteria enable a degree of flexibility since they relate to the area within which development is proposed and the policy is not prescriptive in respect of what constitutes good design. It will be clarified and illustrated through leaflets giving supplementary planning design guidance.

1388/3611 Environment Agency

16. Sustainable Urban Drainage Systems (SUDS) should be provided where practical as part of future developments in order to reduce the impact of surface water discharge and so help to deliver sustainable urban development.

Council's Response:

17. See the Councils Proposed Inquiry Change IC7 below. The use of SUDS is also referred to by the text in policy E25 – Protection of Groundwater.

1135/2391 House Builders Federation

18. In point (a) the word 'amenity' is vague and the reference to 'maintenance' is contrary to the advice in Circular 1/97 Planning Obligations because it is for the 'end user' to be responsible for maintenance, not the developer, (b) duplicates part M of the building regulations. It is not clear what will be required under (c).

Council's Response:

19. (a) Amenity is a concept that is widely used and understood.

The reference to 'maintenance' has been misinterpreted by the HBF; the phrase used merely reflects the need for new development to maintain the amenity of occupiers of neighbouring property. However, to avoid confusion it is proposed to make a change in the wording at Inquiry to use the word "retention" (refer to IC7 below).

(b) Access by persons with limited mobility is an important planning issue and therefore this Council considers reference to this issue is justified.

(c) Part (c) will require applicants where relevant (Note the proposed inquiry change, IC7 which inserts the word 'relevant' in the first part of policy) to show how a development incorporates measures to assist in waste minimisation and recycling.

Inquiry Change

IC7 **The Council has recommended that the first sentence of Policy E1 is amended to read: "Planning permission will not be granted for development which does not include each of the following, where relevant:" that the word 'maintenance' should be replaced with the word 'retention' within criteria (a), and that a new criteria (xx) should be added at the end of the policy to read: "the use of sustainable techniques to minimise the impact of surface water discharges".**

601/2615 Nottinghamshire Wildlife Trust

20. Broadly support this policy but suggest there should be some amendments to wording and additional clauses to ensure that any new development aspires to the highest possible standards. Changes suggested: (g) …… with an emphasis on appropriate locally native species, (h) …… with integral creation of wildlife habitat. Additional clause: A high standard of energy-efficiency, with renewable energy sources exploited where appropriate.

Council's Response:

21. (g) and (h) amendments are not thought appropriate. Landscaping schemes will be assessed on their particular suitability – in many cases native species will be appropriate, but this will depend on the type and scale of the scheme. The Council agrees that open space can often include the creation of wildlife habitat – however many factors will be important in assessing the quality of the provision of open space – it is not intended that this policy should provide an exhaustive list of these factors. The suggested additional clause is covered by Policy E2.

Inspector's Conclusions

1. In general it is preferable to word policies positively as this reflects the provisions of S54A of the Act. The introduction to the Plan makes it clear that proposals may be subject to a wide range of policies. Failure to meet one or more of these could result in planning permission being refused. However, this issue is largely a matter of style and there may be scope for more confusion with positive wording of some Policies, as BBC claim. As most of the policies in the RDDP are expressed in negative terms it would also be unduly onerous to modify such a large number at this stage.

2. Neither the text nor the Policy describe the standards expected by criteria a), e), g), and h) and none were offered by the BBC. As both they and the objector suggest, these will have to rely upon Supplementary Planning Guidance. As this will not be subject to the same scrutiny as the RDDP, the Council will need to

ensure that such guidance is fully justified in the light of government policy advice and local circumstances if they are to gain support for this on appeal.

3. It is not possible to identify the impact of Policy E1 on the costs of rural buildings. However, there is no general case for accepting poorer designs in rural areas and, given appropriate skills, good design should be economical as well as aesthetically pleasing.

4. R68 should have met Miller's objection.

5. It is unclear what is meant by a more strategic approach to securing a high standard of design, given the common meaning of the word. I fail to see much distinction between the two questions the Countryside Agency pose of proposed developments. However, in practice there is a requirement to give reasons for refusal of planning permission, which may concentrate minds on their latter question; a reason that a design is not good enough is unlikely to be good enough itself. Policy E1 is proposed to be renamed Good Design by IC90, which I support.

6. I cannot see why the intent of Policy E1 should be fostered by including it or some elements of it in a new Policy in Chapter 2. Policies apply wherever they appear in the Plan. Inclusion in Chapter 2 gives no added weight or importance to these design matters. However, Policy K6 in the Strategy Chapter 2 seeks to preserve the character and quality of the environment and the current level of amenity from unreasonable harm in respect all proposals for new development. This provides the broad context for the more detailed Policy E1 in Chapter 3. The Countryside Agency, whilst advocating a new policy in Chapter 2, suggest no terms for this, despite my advice at the Pre-Inquiry Meeting. Their precise intentions thus remain unclear. I return to this later in this Chapter when dealing with suggestions for additional policies. I see no need to refer here or in Chapter 2 to the special character of villages. Criterion E1f seeks respect for the character of the setting for all developments wherever they are situated. Villages in Broxtowe are few relative to the urban areas and deserve no special mention. Their character also varies from one to another. Apart from the fact that references in the supporting text to village design guides or countryside design summaries would be an over elaboration of such broad policies, it would be premature as BBC have not prepared any. Whether they do so in future is largely a matter for them, not for me. Any that they do prepare are likely to be in the form of Supplementary Planning Guidance, outside the scope of this RRDP. I support BBC's choice to limit the range of this Plan and to keep it reasonably succinct. This reflects government advice seeking concise development plans that avoid excessive detail.

7. However, IC91 usefully clarifies that Policy E1 applies throughout the Plan area not simply within the built up environment or built up areas. It appears to succeed IC6, which sought the deletion of the last sentence of paragraph 3.63. It clarifies any misunderstanding that might have existed in the RDDP.

8. It is not entirely clear by what means Healey and Baker seek flexibility. The term "normally" is unnecessary as the application of policies to particular proposals will reflect their locations and must under the Act take account of all material circumstances. However, I share BBC's concern that good design should not be confined simply to areas of existing quality.

9. IC7 which puts forward a new criteria xx requiring sustainable techniques to minimise the impact of surface water discharges should have met the Environment Agency's objection and should be supported as an important aspect of design in new developments. I see little difference between the terms "retention" and "maintenance" in this particular context as it does not imply any ongoing obligation on developers, which could be contrary to the advice in Circ 1/97. However, if BBC are more comfortable with the former and it gives rise to less misunderstanding, it is worthy of support.

10. The term "amenity" in the context in which it is used is commonplace and well understood. It covers conventional matters such as noise, air and other forms of pollution, freedom from overshadowing, dominance, space around buildings etc. Indeed, it is a term that is widely used by housebuilders in their own marketing. Criterion b) covers facilities such as open space as well as buildings and it could be misleading to omit the latter term even if they are covered by Building Regulations. I see no need to elaborate on the measures in Criterion c) in the RDDP. If necessary this could be addressed by Supplementary Planning Guidance.

11. The term "high standard" should be quite sufficient to achieve the aims of good design. The term "highest possible standard" begs a definition and is not appropriate. The introduction of the terms " locally native species" in item g) is unnecessary elaboration and the integral creation of wildlife habitats might not be appropriate in the design of some open spaces within development in item h). The issue of energy efficient development is covered by Policy E2.

Recommendation

12. I recommend that Policy E1 of the RDDP be modified as set out in IC7, IC90 and IC91. Otherwise I recommend that no modification be made in respect of the above objections.

E2 ENERGY-EFFICIENT DESIGN AND LAYOUT

Objections

1381	3470	Ms F Forgham	Government Office for the East Midlands
1388	3615	Ms E Marshall	Environment Agency, Lower Trent Area
1135	2393	Mr I Moss	House Builders` Federation
601	2616	Mr S Rufus	Nottinghamshire Wildlife Trust

E2 R70 Energy-efficient design and layout - rephrasing of reference to energy efficient design and layout

601	4553	R70	Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

1381/3470: Government Office for the East Midlands

1. Policy does not say clearly what applicants are expected to do, other than to ‘demonstrate’ that issues have been ‘considered’.

Council's Response:

2. The wording of this policy was amended in the revised deposit draft (R70) to replace the word 'considered' with the word 'addressed'. The explanatory text to the policy provides examples of what applicants can do. The text also acknowledges the Council's intentions to prepare further SPG on the subject.

1388/3615: Environment Agency

3. Environment Agency seeks to promote water conservation as a sustainable planning objective. The scope of the policy and text should be expanded to encompass conservation of water resources.

Council's Response:

4. Policy E2 focuses on energy-efficient design and layout – the Council wishes to keep this as a single issue policy. However, note the insert (R114) into the supporting text of Policy E25 – Protection of Groundwater on the issue of sustainable drainage systems.

1135/2393: House Builders' Federation

5. 'Energy-efficient design' could be interpreted as including matters covered by building regulations.

Council's Response:

6. 'Energy-efficient design' is an important planning issue, and one this Council is keen to promote due to its contribution to sustainability. The Building Control Section refers to Approved Document L of the Building Regulations in assessing new development, concerning the conservation of fuel and power in buildings. Liaison between Planning and Building Control sections will continue. The policy and its implementation will clearly only apply to matters appropriate to the Council's planning function.

601/2616: Nottinghamshire Wildlife Trust

7. Support but believe policy should be extended to promote energy generation by renewable sources in new development.

Council's Response:

8. The Council does not consider this policy needs further expansion, as R70 has deleted the word 'considered' and inserted the word 'addressed'.

R70 E2 Energy Efficient Design and Layout - Rephrasing of reference to energy-efficient design and layout

601/4553 Nottinghamshire Wildlife Trust

9. Support for amendment but potential for further strengthening of policy. Suggested wording: 'energy efficient design and layout have been addressed and incorporated into the design wherever practicable'.

Council's Response:

10. The Council considers the existing wording strikes the right balance, in that it requires developers to demonstrate that energy efficient design and layout issues have been addressed. It will be for planning officers to assess whether measures taken are sufficient.

Inspector's Conclusions

1. R70 clarifies what is expected of applicants for planning permission and should be supported.

2. Policy E25 covers ground water resources and I see no good reason to confuse the single issue Policy E2 with such aspects.

3. Aspects of energy efficiency that are covered by Building Regulations should clearly be left to that regime. The HBF and the Council should be well aware of the recourses open to applicants for planning permission who experience any attempt on the part of the LPA to exceed their planning powers. However, the latter may appropriately cover some aspects of design and that term should therefor be retained.

4. Energy efficiency encompasses energy generation as well as energy conservation and it is unnecessary to elaborate on this in the policy. It would be unreasonable for a LPA to insist on measures that are impracticable and the Trust's suggested amendment should go without saying.

Recommendation

5. I recommend that no modification be made to the RDDP in respect of the above objections.

E3 DEVELOPMENT WITHIN CONSERVATION AREAS

Objections

3.070			***Development within Conservation Areas***	
1468	3933		Miss A Plackett	English Heritage East Midlands Region
E3			***Development within Conservation Areas***	
1162	2450			McCarthy & Stone (Developments) Ltd The Planning Bureau Ltd
927	2221		Mr RP Bullock	
E3 R72			***Development within Conservation Areas - Deletion of reference to features which contribute to the character of the area***	
598	4418	R72	Mr I Brown	CPRE - Broxtowe Group
1400	5327	R72	Prof K Elsdon	Bramcote Conservation Society
601	4621	R72	Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

3.70 Development within Conservation Areas

1468/3933 English Heritage East Midlands Region

1. Add a brief summary of the nature and type of conservation areas in the borough.

Council's Response:

2. The nature and type of conservation areas within the borough is varied and diverse. Appendix 5 to the Plan gives a short description of each conservation area. The Council would not wish to attempt a brief summary within the explanatory text, as this is likely to be misleading rather than helpful and would not add to the purpose of the policy as a whole.

1162/2450 McCarthy & Stone (Developments) Ltd

3. Do not object to Policy E3 per se, but are concerned that the wording will place undue restrictions on development within Conservation Areas. It is considered that the requirement to preserve or enhance both the 'character and appearance' is in conflict with Government Guidance PPG15.

Council's Response:

4. This Council considers this policy is not in conflict with PPG15. Paragraph 4.15 of PPG15 discusses the formulation of authorities policies for its conservation areas and states that policies should make clear that "… development proposals will be judged for their effect on the character and appearance of the area …"

5. and again paragraph 4.20 which states ".... the character and appearance of conservation areas should always be given full weight in planning decisions...."

6. The Council considers that the text of PPG15 arises from the fact that some conservation areas are important by reason of their character, some by reason of their appearance, and some by reason of their character and appearance.

927/2221 Mr R P Bullock

7. Although there are 14 conservation areas within Broxtowe there are no conservation areas within Greasley, despite a large number of listed buildings and two ancient monuments.

Council's Response:

8. The number of individual buildings worthy of listing is not in itself justification for the designation of a Conservation Area. For an area to be designated a conservation area it needs to be of special architectural or historic interest. Paragraph 4.2 of PPG15 – Planning and the Historic Environment states:
"It is the quality and interest of areas, rather than that of individual buildings, which should be the prime consideration in identifying conservation areas".

9. Whilst the Council reviews the borough from time to time to consider whether further designation of conservation areas is called for, unfortunately no areas have been identified in Greasley that warrant designation.

10. In any instance it is not the purpose of Local Plan to designate Conservation Areas as this is the subject of separate legislation and powers of the Council.

E3 R72 Development within Conservation Areas - Deletion of reference to features which contribute to the character of the area, transferred to 3.70

Objectors Raising Similar Issues

The following three objectors have all raised similar concerns regarding the deletion of text from policy E3.

598/4418 CPRE – Broxtowe Group

13. Object to removal of text. This paragraph mentions important features, which should be mentioned and taken into consideration.

1400/5327 Bramcote Conservation Society

14. Object to removal of text. This may open the way to undesirable policy changes or planning decisions.

601/4621 Nottinghamshire Wildlife Trust

15. Object to removal of text. Greater weight is given to statements that reside within a policy.

Council's Joint Response:

16. R72, the removal of text from Policy E3 is in response to GOEM's comments. All issues in the deleted text will be taken into account and are covered by the remaining policy text.

Proposed Inquiry Change

17. The Council proposes the following change to paragraph 3.73 to correct an omission and ensure completeness.

IC106 **The Inspector is invited to recommend that "Cossall" is added to the list of conservation areas in para. 3.73.**

Inspector's Conclusion

1. Paragraph 3.73 lists 13 conservation areas within the borough. The 14th at Cossall was inadvertently omitted and BBC put forward IC 106 to deal with this. This factual correction should clearly be supported. Appendix 5 also provides a brief description of the physical character of each conservation area in the borough, including Cossall, and an appropriate reference is made to this in paragraph 3.73. It would be unnecessary duplication and serve no useful purpose to repeat these descriptions in the text of Chapter 3.

2. PPG15 and the Act requires that special attention be paid in the exercise of planning functions to the desirability of preserving **or** enhancing the character **or** appearance of a conservation area. As BBC consider that some conservation areas are important by virtue of their character, others by their appearance and some by both, the terms of PPG15 and the Act are more appropriate than Policy E3 and the term "or" should be substituted for "and" after the term "character".

3. It is always open for the LPA to approve proposals contrary to Policy E3, where other material circumstances justify this. Without such circumstances it is

difficult to see how the LPA could approve contrary proposals whilst properly discharging its statutory duties.

4. It is not the role of this Local Plan to designate new conservation areas. This is covered by other legislation. It is for the objector to press his case upon the Council to consider the designation of a conservation area at Greasley. However, PPG15 advises that it is the quality and interest of areas, rather than that of individual buildings that should be the prime consideration in any designation. However, interest may include historic interest and conservation areas may include important open spaces as well as built development.

5. The terms of Policy E3 in the RDDP are wide and relevant enough to cover all material impacts of proposed developments on a conservation area and I do not regard R72 as weakening the Policy. I see no need for the undue elaboration of the FDDP. Indeed, that could be counter productive as it might be argued that other matters not specifically mentioned should be discounted.

Recommendation

6. I recommend that the RDDP be modified as set out in IC106 and by substituting the term "or" for "and" after the term "character" but no other modifications should be made in respect of the above objections.

E4 DEMOLITION WITHIN CONSERVATION AREAS

Objections

3.075		***Demolition within Conservation Areas***	
1468	3937	Miss A Plackett	English Heritage East Midlands Region
E4		***Demolition within conservation areas***	
1162	2451		McCarthy & Stone (Developments) Ltd The Planning Bureau Ltd
927	2222	Mr RP Bullock	
1381	3472	Ms F Forgham	Government Office for the East Midlands

Summary of Objection Issues

3.075 Demolition within Conservation Areas

1468/3937 English Heritage East Midlands Region

1. It should be made clear that applications should be detailed and not outline, in line with paragraph 4.18 of PPG15.

Council's Response:

2. The explanatory text states "full details of what is proposed for the site after demolition will be required". Paragraph 4.18 of PPG15 states "Local planning authorities will often need to ask for detailed plan and drawings of proposed new development". The Council considers that the wording used in the explanatory text is in full accordance with PPG15, and no change is therefore proposed.

Inspector's Conclusions

1. The terms of paragraph 3.75 provide sufficient guidance to applicants without any further elaboration.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of the above objection.

E4 Demolition within Conservation Areas

1162/2451 McCarthy & Stone (Developments) Ltd

1. Do not object per se, but concerned wording will place undue restriction on development within Conservation Areas. It is considered that the requirement to preserve or enhance both the 'character and appearance' is in conflict with PPG15.

Council's Response:

2. The Council considers that this policy is not in conflict with PPG15. Paragraph 4.15 of PPG15 discusses the formulation of authorities' policies for its conservation areas and states that policies should make clear that "… development proposals will be judged for their effect on the character and appearance of the area …"

   and again paragraph 4.20 which states that "the character and appearance of conservation areas should always be given full weight in planning decisions."

   The Council considers that the ambiguity within the text of PPG15 arises from the fact that some Conservation Areas are important by reason of their character, some by reason of their appearance, and some by reason of their character and appearance.

927/2222 Mr R P Bullock

3. Although there are 14 conservation areas within Broxtowe there are no conservation areas within Greasley, despite a large number of listed buildings and two ancient monuments.

Council's Response:

4. See the Council's response to the same objection to Policy E3 in Proof 057.

1381/3472 GOEM

5. Local Plan policies should not refer exclusively to matters dealt with by legislation other than the Town and Country Planning Act 1990, such as listed building consent. Paragraph 2.4 of PPG15 advises that Section 54A of the 1990 Act does not apply to listed building and conservation area consents, although the final part of paragraph 2.4 advises that plans should include policies for works of demolition and alteration which, while not in themselves constituting development, could affect an authority's decision on a related application for planning permission.

Council's Response:

6. Having considered further the wording of the policy, and with regard to consultation responses received, the Council wishes to amend the policy and reasoned justification.

Inquiry Change

7. **The Council has recommended that the wording of paragraph 3.75 and the wording of Policy E4 be amended as follows:**

IC8

3.75 "Although planning permission is not required for demolition within a conservation area, 'conservation area consent' may be needed. This is an area where development and conservation issues are linked and therefore need to be addressed together. Conservation area consent will only be granted in exceptional circumstances where, for instance, a building makes little or no contribution to the character or appearance of the conservation area. In these circumstances it will also be necessary to ensure that redevelopment takes place within a specified period and this will be expected to be achieved through a formal planning obligation entered into by the developer voluntarily, or by condition.

8. **3.76 This policy is designed to implement objective e/h and accords with Structure Plan policy 3/17.**

9. **E4 Conservation area consent will not be given for the demolition of a building or structure, which contributes to the character or appearance of a conservation area. Where a building makes little or no contribution to the character or appearance of the conservation area, conservation area consent will not be granted unless the proposed demolition forms part of a scheme which would preserve or enhance the character and appearance of the area."**

10. It appears that this new wording overcomes key objections and is entirely in accordance with PPG15.

Inspector's Conclusions

1. Whilst PPG12 para 3.5 advises that development plans should not contain matters other than for the development and use of land, it identifies the importance of regard to wider sustainable development objectives which include effective protection of the environment. As part of this, para 4.4 of PPG12 identifies policies, which help to preserve the built and archaeological heritage. I accept the Council's argument, set out in IC8, that development and conservation issues are linked and should in most cases be addressed together. It is surely helpful for applicants to be aware of the LPA's policy towards development and demolition in conservation areas and I know of no other document where this is set out for them. It is convenient to include this in the RDDP in the interests of completeness. Furthermore, these matters clearly involve development and the use of land.

2. However, the terms of Policy E4 in the RDDP and in IC8, as with Policy E3, do not accurately reflect the terms of PPG15 and the Act as again they include the term "and" rather than "or" in the last line. This conflict should be resolved by adhering to the statutory terminology. Again application of S54A may permit exceptions to be made to Policy E4 where persuasive material circumstances apply.

3. The designation of new conservation areas is dealt with under Policy E3 above.

Recommendation

4. I recommend that the RDDP be modified as set out in IC8 except that the term "or" be substituted for the term "and" after the term "character" in the last line of Policy E4.

E5 LISTED BUILDINGS

Objections

3.077		***Listed Buildings***	
1468	3941	Miss A Plackett	English Heritage East Midlands Region
E5		***Listed Buildings***	
1381	3473	Ms F Forgham	Government Office for the East Midlands

Summary of Objection Issues

3.077 Listed Buildings

1468/3941: English Heritage East Midlands Region

1. In the third sentence the word 'normally' should be avoided.

Council's Response:

2. Following further consideration the Council wish to suggest the following amendment, which it is considered will overcome this objection.

Inquiry Change

IC10 3. **The Council has recommended that the third sentence of paragraph 3.77 be deleted.**

Inspector's Conclusions

1. I take no exception to the term "normally" in this particular context. However, as IC10 deletes this term as part of the third sentence and is considered by the Council to be an improvement, it is worthy of support.

Recommendation

2. I recommend that the RDDP be modified as set out in IC10.

E5 Listed Buildings

1381/3473: GOEM

1. Local Plan policies should not refer exclusively to matters dealt with by legislation other than the Town and Country Planning Act 1990, such as listed building consent. Paragraph 2.4 of PPG15 advises that Section 54A of the 1990 Act does not apply to listed building and conservation area consents, although the final part of paragraph 2.4 advises that plans should include policies for works of demolition and alteration which, while not in themselves constituting development, could affect an authority's decision on a related application for planning permission. It should therefore be made clear that the decision on listed building consent could effect the related decision on the application for planning permission.

Council's Response:

2. The Council note the point and accept that the text requires clarification.

Inquiry Change

IC9

3. **The Council has recommended that the following sentence be inserted after the first sentence of the explanatory text (paragraph 3.077): "This is an area where development and conservation issues need to be addressed together".**

Inspector's Conclusions

1. IC9 appears to meet the GOEM's concern as it spells out the link between development and conservation issues. It should therefor be supported.

2. The exceptional circumstances referred to in the Policy should not weaken its effect unduly as EH, at one time feared, and its purpose is to secure the future integrity of the listed building. The cumulative effect of previous alterations should be part of the normal assessment and needs no specific mention in the Policy.

Recommendation

3. I recommend that the RDDP be modified as set out in IC9 in respect of these objections.

E7 ADVERTISING

Objections

3.083 Advertising

1124	2201	Granada Hospitality Limited Weatherall Green & Smith

Summary of Objection Issues

3.083 Advertising

1124/2201 Granada Hospitality Limited

1. The paragraph states that the Council intends to apply to the Secretary of State for an amended Area of Special Control to be designated, which is to include the area covered by the revised Green Belt. We request we are informed of any consultation process resulting from the procedure to amend the boundaries of this designation. We also suggest that such an area is depicted on the Proposals Map.

Council's Response:

2. The Council intends to apply to the Secretary of State for an amended Area of Special Control to be designated to include the area covered by the revised Green Belt. The Council will, in applying for an amended Area of Special Control, follow the procedure and guidelines laid out in schedule 5 of The Town and Country Planning (Control of Advertisements) Regulations 1992. As the designation of the Area of Special Control has not yet occurred it is not a proposal which the Council has the authority to show on the Proposals Map.

Inspector's Conclusions

1. The Council's intentions would be pursued in the future under separate legislation and no doubt the objector would be consulted upon any proposed amendment to the Area of Special Control. As there is no confirmed amendment, it would be inappropriate to show the Area of Special Control on the PM. However, the intention is that it should coincide with the area of the modified Green Belt, which would be clearly shown.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

E8 DEVELOPMENT IN THE Green Belt

Objections

3.085		***Development in the Green Belt***	
601	2622	Mr S Rufus	Nottinghamshire Wildlife Trust
3.086		***Development in the Green Belt***	
1163	2455		CPRE
			CPRE (Broxtowe District Group)
3.087		***Development in the Green Belt***	
1108	2150	Mr M Bagshaw	Stamford Homes Limited
			Barton Willmore Planning Partnership
3.088		***Development in the Green Belt***	
1216	2891	Mr RJ Dawson	
E8		***Development in the Green Belt***	
1429	3757		British Wind Energy Association
			Brodies W.S.
1178	2729		Metropolitan & District Developments Ltd.
			Shoosmiths Solicitors
1124	2204		Granada Hospitality Limited
			Weatherall Green & Smith
1131	2361		Allen Homes (East Midlands) Ltd

				Steedman Planning & Land
1155	2494			Greasley Parish Council
				Andrew Thomas Planning
613	1617		Mr S Barber	Broxtowe Real World Coalition
1486	4049		Mr J Gough	RJB Mining (UK) Ltd
1385	3587		Mr B Neville	Sport England (East Midlands)
601	2640		Mr S Rufus	Nottinghamshire Wildlife Trust
1087	3634		Mr A Taylor	
				Stansgate Planning Consultants

E8a?

E8e			***Development in the Green Belt***	
1155	5088	R79		Greasley Parish Council
				Andrew Thomas Planning

Summary of Objection Issues

3.085-3.091 Development in the Green Belt

601/2622 Nottinghamshire Wildlife Trust

1. The NWT fully support the objectives of the Green Belt as stated in PPG2 and feel that wholesale redrawing of Green Belt boundaries devalues the very principle on which it is based. As a result they wish to see considerable change of emphasis in this section. The section should emphasise the permanence of Green Belt and the need to maintain existing Green Belt boundaries. The section should also stress the role of the Green Belt in defining the urban edge, providing countryside within walking distance of urban dwellers, retaining the identity of settlements and preventing coalescing sprawl. The section should also state that every effort must be made to maintain the Green Belt, that this will help fuel the "urban renaissance", that the Council recognises the importance of Green Belts for farmland wildlife and that the retention of the greatest possible area of countryside is critical in order for revision of agricultural policy to provide for food needs on a local, extensive basis with a rich landscape and wildlife resource.

Council's Response:

2. Some of these paragraphs (3.85-3.88) have been moved to the strategy section. The redrawing of the Green Belt boundaries is dealt with under K5 (Proof 003). In general terms, the Council does not consider that existing Green Belt boundaries can be maintained, because of the need to provide additional land for housing and employment development. These issues are referred to in the Council's housing, employment and Green Belt round table papers. The purposes and roles of Green Belts, which include many of the points mentioned by the Trust, are set out in PPG2 and the Council does not consider that it would be helpful to repeat them in the Plan. The Council believes that its commitment to protecting the Green Belt and wildlife is made clear by policies K5, E8-E12 and E16-EXX (R96). The Council suggests however that changes to farming practices and national agricultural policy are beyond the scope of the Plan.

Inspector's Conclusions

1. Contrary to the Wildlife Trust's contentions, the RDDP involves only a limited number of amendments to the adopted Green Belt boundaries, not wholesale redrawing. The permanence of the Green Belt, as PPG2 advises, can only be maintained if sufficient land is left out of the Green Belt to meet longer term development needs. Indeed, it is the undue tightness of the adopted Green Belt that has led to the need for amendments to it at this time to meet legitimate development requirements. The Council has undertaken an urban capacity study (CD21a) and has sought to make effective use of and give precedence to the

development of previously developed and other appropriate urban land; not only to assist in urban regeneration, but to safeguard the countryside and its resources. The other additions suggested by the Trust concern Green Belt purposes and objectives, which are not appropriate in a section dealing with development in the Green Belt. In considering objections to amendments to Green Belt boundaries, I have regard to Green Belt purposes as set out in para 1.5 of PPG2, as well as other material factors, rather than the paraphrasing of these in para 3.85 of the FDDP. In my assessment, I have considered the extent of visual envelopes as suggested, at one time, by English Heritage.

3. The transfer of paras 3.85 – 3.88 to Chapter 2 is appropriate given its contents: a description of the history of the Green Belt locally and the main proposed amendments. It may give the subject the importance that Metropolitan and Greasley PC sought, but the Plan should be read as a whole and all sections of it are important. CD21b identified the alterations proposed to the adopted Green Belt boundary. It would be impracticable to illustrate such changes on the PM, as the Parish Council, once requested.

4. IC11 put forward by the Council seeks to avoid any misunderstanding by removing the specific example from the last sentence of R77. It also makes the RDDP more concise. It should be supported on both counts.

Recommendation

5. I recommend that no modification be made to the RDDP in respect of these objections except for that put forward in IC11.

3.086 Development in the Green Belt

1163/2455 CPRE

1. While Nottingham CPRE supports the aims and objective outlined in paragraph 3.85 – 3.86, it emphasises the importance of the Green Belt in preventing coalescence of communities and protecting the countryside from uncontrolled and unsustainable development, which would lead to long-term deterioration of the environment for the whole of the borough. Every effort should be made to minimise the amount of development within existing Green Belt and to minimise the adjustments to the existing Green Belt. Nottingham CPRE notes with concern the inclusion of White Land and returns to this in a subsequent comment. The wording of paragraph 3.86 should therefore be changed to include "the absolute requirement to keep to a minimum the requirement for development in the Green Belt".

Council's Response:

2. Paragraphs 3.85 – 3.88 have been moved to the strategy chapter. Concerns regarding the redrawing of the Green Belt are dealt with under that section (Proof 003). Note also the deletion of Policy E11 – White Land. The Council has sought to minimise loss of Green Belt in meeting its Structure Plan requirements for housing and employment development. These issues are referred to in the Council's housing, employment and Green Belt round table papers. However the Council does not consider that it would be helpful to add a rather general statement of the kind proposed.

Inspector's Conclusions

1. Exceptional circumstances must be demonstrated before changes may be justified to the boundaries of adopted Green Belts. This clearly implies the need to minimise development in areas of Green Belts as long as suitable alternative land is available in sustainable locations outside them. However, it is unnecessary to state this in a short paragraph outlining a brief recent history of the Green Belt in Broxtowe. Furthermore, this section in Chapter 3 of the RDDP is no longer concerned with alterations to Green Belt boundaries but with the control of development within Green Belts. Control of planning proposals will depend upon whether the development involved is appropriate or inappropriate development within Green Belt as well as other material factors.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.087 Development in the Green Belt

1108/2150 Stamford Homes Ltd

1. Objection is made to the making of additions to the Green Belt in light of the recommendations in the EMRLGA report 'Strategic Sustainability Assessment of the Nottingham – Derby Green Belt in the East Midland Region' that "no additions should be made to the area currently covered by the Green Belt" (paragraph 6.6 of the report).

Council's Response:

2. Paragraphs 3.85 – 3.88 have been moved to the strategy chapter. Issues regarding the Green Belt boundary are dealt with under that section (Proof 003). However it should be noted that the additions to the Green Belt are very minor, and accord with the advice given in PPG2 and regional guidance to keep the Green Belt boundary under review.

Inspector's Conclusions

1. The EMRLGA Report (CD26) has no statutory status. RPG8 itself puts no bar on the review of Green Belt boundaries in local plans as prompted by the 1996 SP. PPG2 advises that exceptional circumstances have to be demonstrated for any alteration to adopted Green Belt boundaries and case law has held that this applies to additions as well as reductions in the Green Belt. In the latter case this is generally justified in the RDDP by the need to allocate sufficient land for future development. It is less clear in the case of additions. CD21/b para 5.2 gives a brief summary of the factors involved and these are described in more detail in subsequent pages. I have considered these below. From my consideration of some other objections, I am not convinced that a comprehensive review was undertaken to amend cartographic errors, anomalies or changed circumstances. In considering objections to other sites in the Green Belt, I have particular regard to any changed circumstances and to the consistency of treatment.

2. The redevelopment of the former Moorgreen colliery and the creation of a new

industrial estate, a new recreation area and community woodland represents a significant change in circumstances for this area. It is desirable to maintain the separation of the new employment area and the ribbon of development at Moorgreen, which may not be entirely achieved by Policy RC5 and other countryside policies. As I find no basis in later objections requesting the allocation of site DD2 for development, the proposed addition to the Green Belt in this location should be supported.

3. The exclusion from the Green Belt of land at Beauvale Infants School was to allow for a replacement school, which is no longer required. As I find no basis later in objections that seek the allocation of site DD1 and the adjoining site Ea5, this proposed addition should be supported to in order to reflect the changed circumstances and to avoid creating any false impression.

4. No change of circumstances was identified in the case of the two parcels of land at High Street, Kimberley other than a failure of the 1994 Local Plan. These parcels are covered by Mature Landscape Area designation, which provides a measure of control over development. My consideration of objection site K1 c) later leaves me unconvinced over the role of the Green Belt between Kimberley and the A610 by pass in this location. As a result, I am unable to support these two small additions to the Green Belt. The small addition proposed at Windsmoor Road, Brinsley reflects a change in circumstances in respect of a previous planning permission and would remove a strange inlier into the Green Belt and should be supported.

5. No change of circumstances is identified in respect of land at Lawns Mills Cottage and Windmill Open Space, other than recent second thoughts, which in themselves, do not provide exceptional circumstances. Most of the site is protected to some degree by Policy RC4. The small deletions at Stapleford and Kimberley Road, Nuthall correct anomalies in respect of private gardens and should be supported. The properties at Alma Hill are a continuation of this part of the built up area of Kimberley and their retention in the Green Belt is an anomaly, which should be corrected. The small reductions along Bilborough Road and Coventry Lane reflect changing circumstances and provided a more consistent boundary.

Recommendation

6. I recommend no modification be made to the Green Belt in the RDDP in respect of this objection except for the sites at High Street, Lawns Mills Cottage, Windmill Open Space, Kimberley, which should remain outside the Green Belt.

3.88 Development in the Green Belt

1216/2891 R J Dawson

1. Object to the village of Trowell being removed from the Green Belt. We are dairy farmers who have been farming at Rectory Farm, which is at the centre of Trowell, for the last 58 years and believe that any development is not desirable. We also feel that there are several listed buildings in the village (Rectory Farm included) and any major developments would spoil the character of the

village and the area as a whole.

Council's Response:

2. Paragraphs 3.85-3.88 have been moved to the strategy chapter. Issues regarding the Green Belt boundary are dealt with under that section (Proof 003).

Inspector's Conclusions

1. I consider this issue in Chapter 2 where I support the exclusion of the built up area of Trowell from the Green Belt.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

E8 Development in the Green Belt

1124/2204 Granada Hospitality Limited (now Compass Roadside Limited)

1. MSAs are enclaves of intense commercial activity, characterised by built development, hard surfacing and constant commercial activity. The policy does not accord with PPG2 because it does not refer to "very special circumstances". The Green Belt allocation covering the Trowell mA sites should be deleted. Alternatively, "at the very least", there should be a two-tiered policy approach for development in the Green Belt and mAs should be identified as "Major Developed Sites" within which limited infilling should be allowed.

Council's Response:

2. This Council considers the proposed policy does accord with the advice stated within PPG2. Paragraphs 3.1 and 3.2 make clear that there is "a general presumption against inappropriate development" which is "by definition, harmful to the Green Belt".

3. Furthermore, paragraph 3.3 stresses that "Green Belt policies in development plans should ensure that any planning applications for inappropriate development would not be in accordance with the plan". Broxtowe Local Plan has followed this advice, and any exceptional cases, where very special circumstances are proved, would be treated as departures from the development plan (as required by paragraph 3.3). Applicants remain free to make a case to justify inappropriate development, although they should be aware that considerable weight would be given to the harm to the Green Belt.

4. The question of deleting the Trowell mA from the Green Belt is dealt with in the Council's responses to objections to policy K5 (proof 003 and supplement to that proof). There is no justification for a "two tiered policy" and indeed this would not accord with Government guidance in respect of the Trowell mA as the Council does not consider that Trowell mA constitutes a major developed site as described by PPG2 Annex C.

1429/3757 British Wind Energy Association

5. The BWEA submit that renewable energy development, particularly wind energy development, is appropriate and particularly suited to open locations. Reference to "renewable energy

development" should therefore be included in paragraph (a). In addition, the word "significantly" should be inserted before the words "adversely affect" in the third last line of the policy.

Council's Response:

6. The Council has based the list given in paragraph (a) on the advice given in PPG2, which does not include "renewable energy development" as appropriate development. There would appear to be no reason to depart from the advice given in PPG2 in this instance. Indeed it seems likely that renewable energy development would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land in it. It is therefore for any applicant to show why permission should be granted.

7. With regard to the insertion of the word "significantly" before the words "adversely affect" again the Council has taken its lead from PPG2 (paragraph 3.15), which requires that proposals for appropriate development should not be "visually detrimental by reason of their siting, materials or design". The insertion of the word "significantly" would weaken the policy considerably and change its meaning. There is no justification for this change, which would result in a policy not in accordance with PPG2.

1486/4049 RJB Mining (UK) Ltd

8. Objects to the omission of a reference to mineral extraction as appropriate development. Mineral extraction should be included as a potentially acceptable development provided that high environmental standards are "attainable".

Council's Response:

9. Reference to mineral extraction has been excluded, as Broxtowe Borough Council is not the relevant authority for dealing with applications for mining operations. It should also be noted, however, that the wording used in PPG2 suggests that mineral extraction will only be appropriate when high environmental standards are maintained and the site is well restored. As such mineral extraction is not included within the list of appropriate development in PPG2, and would not therefore be included within a list of appropriate development within a development plan policy.

10. This approach in no way departs from the advice given in PPG2 or MPG3: Coal Mining & Colliery Spoil Disposal (revised) 1999.

1385/3587 Sport England (East Midlands)

11. Sport England state "PPG2 has already established that sport and recreation, together with essential facilities, are acceptable in Green Belts. Policy E8 reflects this and is therefore supported". However Sport England have expressed concern to how the word "essential" will be interpreted, especially within a Borough where there is no land outside the limits of development that is not designated Green Belt. They are concerned that the word "essential" will be interpreted narrowly and to the detriment of clubs' vitality.

Council's Response:

12. The wording used in policy E8 is taken from PPG2. In assessing what constitutes an essential facility reference will be had to paragraph 3.5 of PPG2, which gives further explanation as to the meaning of essential facilities:
"Essential facilities …. should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. Possible examples of such facilities include small changing rooms or unobtrusive spectator accommodation for outdoor sport and outdoor recreation".

13. Any proposals that do not meet these restrictive criteria will not constitute appropriate development. It will then be for the applicant to show why permission should be granted. It may be, for example, that a proposal for changing rooms that is rather too large to be classified as appropriate development, may nevertheless be justified with reference to very special circumstances. These very special circumstances may include the need for a sports club to maintain viability (financially or otherwise).

601/2640 Nottinghamshire Wildlife Trust

14. Broad support but suggests amendments:

(1) to allow more intensive use of land - Nottinghamshire Wildlife Trust suggest the deletion of the words "result in a more intensive development or" from point (e); and

(2) to recognise that the wildlife value of the countryside should be respected by any appropriate development in the Green Belt - the Trust suggest that the words "and nature conservation value" should be added at the end of the last sentence.

Council's Response:

15. Point (e) of Policy E8 is proposed for deletion as it does not reflect the guidance in PPG2. The new proposed point (e) reads 'limited infilling or redevelopment of major developed sites'. It would not be appropriate to insert Nottinghamshire Wildlife Trust's proposed text as Annex C of PPG2 specifically states that new development should not occupy a larger area of the site than the existing buildings.

Inquiry Change

16. **The Council has recommended that point (e) of policy E8 should be replaced with the following: "Limited infilling or redevelopment of major developed sites".**

IC112

17. Other policies within the Local Plan (policies E16-EXX (R96)) recognise and protect the wildlife value of the countryside.

1087/3634 A Taylor

18. Policy too tightly drawn – does not acknowledge that planning permission may be granted for inappropriate development provided "very special circumstances" exist.

Council's Response:

19. The Council considers that the proposed policy accords with the advice stated within PPG2. Paragraph 3.1 and 3.2 make clear that there is "a general presumption against inappropriate development" which is "…. by definition harmful to the Green Belt".

20. Furthermore paragraph 3.3 stresses that "Green Belt policies in development plans should ensure that any planning applications for inappropriate development would not be in accordance with the plan". Broxtowe Local Plan has followed this advice and any exceptional cases, where very special circumstances are demonstrated that outweigh the harm by reason of inappropriateness and any other harm, would be treated as departures from the development plan (as required by paragraph 3.3).

E8a?

E8e Development in the Green Belt

1155/5088 Greasley Parish Council

21. Limited infilling in existing villages should remain as an appropriate option and consideration given to the contribution that such a policy could have to the overall housing capacity figures.

Council's Response:

22. The Council does not consider that any of the villages washed over by the Green Belt are appropriate for accommodating new buildings. It should be noted that Trowell village is proposed for removal from the Green Belt and infill proposals would therefore be assessed under different policies.

23. The reference to limited infilling in existing villages in part (e) of Policy E8 was deleted (R79), as the Council does not consider that there are any "washed over" villages that can satisfactorily accommodate infill housing.

24. Broxtowe Borough Council does not have many washed over Green Belt villages – Cossall and Strelley are both conservation areas that are particularly ill suited to accommodating infill housing.

1178/2729 Metropolitan and District Developments Ltd

25. The given reasons for objection relate to policy K5.

Council's Response:

26. These issues are dealt with in the Council's proof relating to policy K5 (proof 003).

1131/2361 Allan Homes (East Midlands) Ltd

27. The given reasons for objection relate to site AC1.

Council's Response:

28. These issues are dealt with in the Council's proof relating to site AC1 (proof 091).

1155/2494 Greasley Parish Council

29. The given reasons for objection relate to proposed new Environment policies.

Council's Response:

30. These issues are dealt with in the Council's proof relating to proposed new Environment policies (proof 006).

613/1617 Broxtowe Real World Coalition

31. The given reasons for objection relate to Toton Sidings.

Council's Response:

32. These issues are dealt with in the Council's proof relating to policy EM6 (proof 137).

Inspector's Conclusions

1. I consider the objections relating to the Trowell MSA in Chapter 2 where I support its designation as a major existing developed site.

2. Wind energy machines, as PPG22 advises, need to be sited in open exposed locations, often in rural areas. However, there is nothing in PPG22 or PPG2 that suggests that such proposals, or other forms of renewable energy development, which could include some waste treatment facilities, are appropriate development in Green Belts. In consequence, there is no justification to include renewable energy development in Policy 8 a) of this Local Plan. Such development would be judged on its merits. The Act provides that the provisions of the development plan should prevail unless other material circumstances dictate otherwise.

3. The suggested inclusion of the term "significant" in the last part of Policy E8 is unnecessary, rather than weakening it. It goes without saying that any adverse impact would need to be significant. An insignificant impact would hardly be material. However, the Council put forward IC126 to delete the last part of Policy E8 to avoid any duplication with Policy E9. Duplication should be avoided in the interests of clarity and conciseness and IC126 should be supported.

4. PPG2 advises that mineral extraction need not be inappropriate development. It need not conflict with the purposes of including land in the Green Belt provided high environmental standards are maintained and the site is well restored. Control of mineral working currently resides with the County Council. However, there is no reason why that authority should not have regard to appropriate local plan policies in exercising their functions, in the same way that BBC have regard to SP policies.

5. For the sake of completeness Policy E8 should include in a new criterion g) mineral working subject to high environmental standards and a high standard of restoration.

Essential Facilities for Sports Clubs

6. It is incorrect to say that there is no land outside the limits of development that does not lie within the Green Belt, as the proposals for Ea9 demonstrate. Criterion c) reflects the specific advice of PPG2 by including the term "essential" and there are no good reasons to exclude this term from the RDDP. R77 attempted to elaborate on the Council's interpretation of the term. I would expect the LPA to apply the term according to its common and ordinary meaning. This may extend nowadays beyond the examples in PPG2 para 3.5, since the issues facing sports clubs, as revealed by Sport England, have moved on since they were drawn up. The impact on vitality will apply to individual clubs irrespective of whether they locate in or outside the Green Belt or how much of the borough's open land is included in the Green Belt. Whether inappropriate development is justified in the Green Belt would depend upon the existence of exceptional circumstances and its impact upon the purposes of the Green Belt.

7. Policy E8 is concerned with Green Belt matters. Other policies amply cover matters of nature conservation value whether in the Green Belt or outside and there is no need to burden Policy E8 with such matters.

8. In Chapter 2 and later, I support the case for identifying 3 major development sites at the Trowell MSA, Toton Sidings and Bramcote Hills School. I note the support of Mr Datkin for retaining the Green Belt at Toton Sidings, however the earlier evidence he refers to was not put before me. I noted that criterion E8 e) in the RDDP (R79) appears to permit limited infilling or redevelopment at all existing developed sites, whatever their size and without them being identified on the PM. This is contrary to the advice of PPG2 in both respects, as the Council seem to have belatedly recognised in IC112. Furthermore the terms of criterion e) appear to be defective in that it is difficult to visualise even limited infilling that does not lead to a more intensive development and an additional building area. I recommend that criterion e) should be re-written as set out in IC112. The Council should also include new supporting paragraphs identifying the 3 major developed sites identified above and refer to the relevant criteria in PPG2 Annex C paras C3 a) to c) and C4 a) to d) that apply to such sites. In that case, it is unnecessary to include such detail in the Policy criterion itself.

9. Following R79 it is clear that BBC do not regard any of the existing villages within the Green Belt as appropriate for accommodating limited infilling. As the Parish Council do not identify any, as advised by PPG2 para 2.11, I cannot take the matter further.

10. It is always open to the LPA to approve development contrary to any policy where it considers its provisions are outweighed by very special circumstances and this is provided for in S54A of the Act. However, it is quite unnecessary to spell this out in each or in one particular policy.

11. The other objections relate to other policies and sections of the RDDP.

Recommendation

12. I recommend that the RDDP be modified as set out in IC112 and IC126 and by the inclusion of a new criterion "g) mineral working subject to high environmental standards and a high standard of restoration"; and by inclusion of new supporting paragraphs identifying the 3 major developed sites above and referring to the relevant criteria in PPG2 Annex C paras C3 a) to c) and C4 a) to d) that apply to such sites.

E9 VISUAL IMPACT OF DEVELOPMENT IN THE Green Belt

Objections

1178	2730		Metropolitian & District Developments Ltd. Shoosmiths Solicitors
1155	2495		Greasley Parish Council Andrew Thomas Planning
111	111	Mr G Staddon	Lafarge Aggregates Ltd

Issues Raised and Council's Response

1155/2495 Greasley Parish Council

1. Suggest separate section/chapter to deal with Green Belt.

Council's Response:

2. Green Belt issues are most appropriately included within the chapter on the Environment which has been included as the first chapter in recognition of its importance. In any event the location of any particular issue within the Plan is a matter of editorial control and does not undermine the value of any policy.

3. E9 does not relate to changes in the Green Belt boundary – the main issue of concern for Greasley Parish Council. The comments made actually seem to support E9 ie, Green Belt is sensitive and important.

111/111 Lafarge Redland Aggregates

4. The issue of harming the open character of the Green Belt by development outside the Green Belt is considered inappropriate and not in line with PPG2 (Para 3.15). Solution suggested - Delete the words "open character and".

Council's Response:

5. Attention is drawn to paragraph 1.4 of PPG2: "The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness" and paragraph 3.15 which states: "The visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design".

6. It therefore seems reasonable to include reference to the Green Belt's 'open character' within Policy E9 as this is its most important visual attribute.

1178/2730 Metropolitan & District Developments Ltd

7. Suggest that the "designation of Green Belt" section be moved to the Strategy chapter.

Council's Response:

8. This section was moved to the Strategy chapter in the Revised Deposit Draft (R43).

Inspector's Conclusions

1. I can see no good reason to allocate a separate chapter to the Green Belt. The designation of the Green Belt is now included in Chapter 2 "The Strategy" of the RDDP and may provide the status that Metropolitan and Greasley PC seek, although all parts of the Plan are important and should be read together.

2. Policy E9 seeks to combine two aspects; appropriate development within the Green Belt and development outside which is conspicuous from within it. The concern to avoid harm to the open character of the Green Belt clearly applies to the former, whilst concerns over visual amenities of the Green Belt applies to both.

The intentions of the Policy should be made clearer by the inclusion of the terms "in the former case" after "character" in the penultimate line and by inclusion of the terms "in both cases" after "Green Belt" in the last line. This would better reflect the advice of PPG2, particularly in para 3.15.

Recommendation

3. I recommend that the RDDP be modified by the inclusion of the terms "in the former case" after "character" in the penultimate line and by inclusion of the terms " in both cases" after "Green Belt" in the last line.

E10 ACTIVITIES IN THE Green Belt

Objections

1178	2731		Metropolitian & District Developments Ltd. Shoosmiths Solicitors
1155	2497		Greasley Parish Council Andrew Thomas Planning
1429	3758		British Wind Energy Association Brodies W.S.
1363	3410	Mr D Herd	Countryside Agency - East Midlands Region
1385	3592	Mr B Neville	Sport England (East Midlands)

Summary of Objection Issues

1178/2731 Metropolitan & District Developments Ltd

1. Suggest that the "designation of Green Belt" section be moved to the Strategy chapter.

Council's Response:

2. This section was moved to the Strategy chapter in the Revised Deposit Draft (R43).

1155/2497 Greasley Parish Council

3. Suggest separate chapter for Green Belt to give more detail on changes to Green Belt boundary.

Council's Response:

4. The "designation of Green Belt" section was moved to the Strategy chapter in the Revised Deposit Draft (R43). It is not considered that there is any need for a separate chapter on Green Belt.

1429/3758 British Wind Energy Association

5. Suggest deletion of 'retain and enhance the attractiveness of landscapes and secure' and replace by 'is not likely to result in unacceptable intrusion on the intrinsic landscape qualities of the area and do not significantly adversely affect designated'.

Council's Response:

6. Policy E10 is a policy that aims to encourage uses of land that make a positive contribution to fulfilling the objectives laid out in paragraph 1.6 of PPG2. The wording proposed by the BWEA is therefore not appropriate. However, following further consideration it is proposed to change the wording of this policy in order to remove reference to derelict land which in particular is covered with more precision by Policy E28. The revised wording ensures that Policy E10 is clear and easily understood.

Inquiry Change

IC13

7. **The Council has recommended that part c) of Policy E10 be deleted. It is therefore suggested that E10 should read; "Within the context set by policies E8 and E9, planning permission will be granted for uses of land in the Green Belt which provide opportunities for access to the open countryside, or for outdoor sport and recreation, and retain or enhance the attractiveness of landscapes and secure nature conservation interests".**

1363/3410 Countryside Agency – East Midlands Region

8. The Countryside Agency accepts the need for policy E10 but is concerned that no provision is made in policy E10 in respect of changes of use, which assist in the diversification of the rural economy.

Council's Response:

9. Policy E10 is a policy that aims to encourage uses of land that make a positive contribution to fulfilling the objectives laid out in paragraph 1.6 of PPG2. Whilst this Council is keen to encourage proposals for sustainable development, which assist in rural diversification, these types of proposal would usually be assessed under policy E8.

1385/3592 Sport England (East Midlands)

10. General support for E10 – but suggest reasoned justification might usefully elaborate on the needs of formal sports clubs.

Council's Response:

11. The Council considers that this policy needs no further elaboration – the policy relates to uses of land, not "essential facilities for outdoor sport" which is covered by Policy E8. However policy E10 does provide positive encouragement for "outdoor sport and recreation". Refer also to the response to objection 1646/5573 (Policy E8).

Inspector's Conclusions

1. I have already rejected the case for a separate Green Belt section in the Plan but the transfer of some paragraphs to Chapter 2 in the RDDP might provide the status that Metropolitan and the Parish Council seek.

Objectives for Land in Green Belts

2. Policy E10 attempts to reflect the objectives for the use of land in Green Belts identified in PPG2 para 1.6. However, it omits the last - of para 1.6, which refers to agricultural, forestry and related uses despite the emphasis of paragraph 3.94 of the RDDP. IC13 also proposes the deletion of criterion c) which relates to the 4th - of

paragraph 1.6 in PPG2. However, Policy E28 gives specific support for the reclamation of identified derelict sites wherever they occur. Also Policy E19 supports the retention of the Best and Most Versatile agricultural land and Policies E21 and E22 seek to retain woodland and trees, again wherever they occur. Their mention in Policy E10 is therefor unnecessary.

Diversification of the Rural Economy

3. The diversification of the rural economy, whilst desirable in itself, is subject in Green Belt areas to Policy E8 rather than E10. Given the nature of this, it is inevitable that proposals for some forms of rural or farm diversification within Green Belts will be treated differently to proposals outside it. However, Policy E8 f) includes changes of use of buildings to employment and tourism uses that help to diversify the economy and in E8 b) essential facilities for outdoor sport and outdoor recreation in Green Belts. These help to fulfil objectives e/r and em/h. Given PPG2, I do not see how they could go further, notwithstanding PPG7 and the White Paper, which extend over the whole of the countryside, the majority of which lies outside Green Belts. The additional – suggested by the Countryside Agency for Policy E10 is much wider. It implies acceptance of developments that might be inappropriate in terms of PPG2. It could therefor be misleading. It should also be borne in mind that Broxtowe's limited rural areas, mostly in the Green Belt, lie within very easy reach of urban areas and face different issues to more remote rural areas.

Essential Facilities for Sports and Recreation

4. Policy E8 not E10 covers sports clubs formal or otherwise and I am satisfied that it correctly reflects government policy. However, I conclude above that the LPA will need to recognise that the nature of essential facilities for sports clubs may have changed since the examples in PPG2 were drawn up.

Recommendation

5. I recommend that Policy E10 be modified only as set out in IC13.

E11 WHITE LAND

Objections

3.96?

E11		***White Land***	
1006	2070		Nuthall Parish Council Browne Jacobson Planning Unit
748	2378		David Wilson Homes North Midlands David Wilson Estates
1163	2457		CPRE CPRE (Broxtowe District Group)
1155	2492		Greasley Parish Council Andrew Thomas Planning
1155	2508		Greasley Parish Council Andrew Thomas Planning
1218	2893		Nuthall Action Group Antony Aspbury Associates

1178	2732		Metropolitan & District Developments Ltd. Shoosmiths Solicitors
1108	2158	Mr M Bagshaw	Stamford Homes Limited Barton Willmore Planning Partnership
1137	2275	Mrs JE Dearman	
1138	2285	Mr DE Dearman	
1136	2266	Mr ID Dearman	
901	1661	Mr D Ewing	
900	1657	Mrs D Ewing	
1184	3227	Mr AN Hardy	
1106	2132	Mr R Hepwood	Miller Homes East Midlands
1222	2925	Mr JR Holmes	Holmes Antill
260	531	Ms C Roberts	
601	2653	Mr S Rufus	Nottinghamshire Wildlife Trust
1087	2046	Mr A Taylor	Stansgate Planning Consultants
1159	2429	Mr C Welsh	

E11 R84 White Land – Deletion of policy and reasoned justification

748	4695	R84		David Wilson Homes North Midlands David Wilson Estates
1108	4949	R84	Mr M Bagshaw	Stamford Homes Limited Barton Willmore Planning Partnership
1106	4912	R84	Mr R Hepwood	Miller Homes East Midlands
1130	5001	R84	Mr R Walters	Hallam Land Management
1420	5365	R84		Bellway Estates & Giltbrook Landowners Consortium Shoosmiths Solicitors
1154	5053	R84		W. Westerman Ltd DPDS Consulting Group
1135	5025	R84	Mr I Moss	House Builders` Federation
228	4155	R84	Ms SE Page	

Summary of Objection Issues

E11 White Land

1006/2070 Nuthall Parish Council

1. This land is an inappropriate location for white land as it implies further development beyond 2011 as part of what is regarded as an unsustainable proposal. Therefore all the harm, which the allocated development will cause, will be compounded in the future. Land should remain as Green Belt.

Council's Response:

2. Paragraph 3.96 and Policy E11 have been deleted from the Revised Deposit Draft (R84) resulting in no areas of white land shown on the proposals map. Accordingly it appears this objection is overcome in part. The Council's response with regard to the large mixed-use development at Watnall/Nuthall, and the associated area of white land which is referred to in the objection, is dealt with separately (Proof 014).

748/2378 David Wilson Homes

3. Insufficient land has been removed from the Green Belt and designated as white land catering for development requirements in the longer term, beyond the plan period. The approaches advocated

in PPG2, the Structure Plan and Draft RPG8 have not been reflected in the Deposit Draft. Additional land should be designated (different sites across the borough specified for designation).

Council's Response:

4. See the Council's response to 748/4695 (paragraphs 32-38).

1178/2732 Metropolitan and District Developments Ltd

5. Object to boundary of the Green Belt in that it excludes a large area of land at Watnall/Nuthall currently statutory Green Belt. The exclusion of this land from the Green Belt is contrary to the stated purposes of Green Belts set out in PPG2. This approach fails to comply with the guidance for Green Belt revision and safeguarded land contained in policy 1/5 of the Structure Plan.

Council's Response:

6. Paragraph 3.96 and policy E11 have been deleted from the Revised Deposit Draft (R84) resulting in no areas of white land shown on the proposals map. Accordingly it appears this objection is overcome in part. The Council's response with regard to the large mixed-use development at Watnall/Nuthall, and the associated area of white land which is referred to in the objection, is dealt with separately (Proof 014).

The following objectors all raise similar issues. Their objections and a joint response is presented below:

1163/2457 CPRE

7. There is no requirement upon the borough council to include any white land in the plan. Once land has been designated as white land, it is effectively earmarked for future development. There is a presumption that development will be permitted there in the future, thus it becomes seen as already part of the developed landscape and is "blighted". E11 should be re-written to read 'No land within the Borough is designated as white land'.

1155/2492, 2508 Greasley Parish Council

8. There has been no consistent, borough-wide analysis of longer-term development needs nor where they might best be satisfied beyond the timescale of the present plan. There has been no explicit justification for the selection of a site of this size in this location. No exceptional case has been provided to justify the alteration of the Green Belt boundary in the case of white land.

1218/2893 Nuthall Action Group

9. The only white land expressly provided for in the plan is at the Watnall development. It is merely a convenient device for accommodating the residue of the area within the man-made boundaries adopted in this case, which is not immediately required for development. This land will come under early pressure for release for development ahead of any comprehensive review of the Plan because of its position.

601/2653 Nottinghamshire Wildlife Trust

10. Object to this policy, as explained in objection to paragraph 3.96. Recommend deletion of this policy and inclusion of no white land in the plan.

Council's Joint Response:

11. Paragraph 3.96 and policy E11 have been deleted from the revised deposit draft (R84) resulting in no areas of white land shown on the Proposals Map. Accordingly it appears the objections have been overcome.

1108/2158 Stamford Homes Limited

12. Not enough safeguarded land has been identified for long-term development need for the period beyond 2011. Unlikely to meet the development needs for the period up to 2021. The Structure Plan advises of the need to review Green Belt boundaries and to safeguard land. PPG2 (para 2.12) and the Public Examination Draft of RPG for the spatial development of the East Midlands (para 3.17) gives similar advice. (An area of land is put forward by the objector for white land designation).

Council's Response:

13. See the Council's response to the objection 1108/4949 (paragraphs 32-38).

1106/2132 Miller Homes East Midlands (formerly Birch Plc)

14. Omission on the proposals map to the absence of 'white land'. An area of land is put forward by the objector for white land designation, in the event that it is not considered appropriate for a residential allocation.

Council's Response:

15. See the Council's response to the objection 1106/4912 (paragraphs 32-38).

1222/2925 Holmes Antill

16. The plan fails to identify sufficient areas of white land and therefore unnecessarily reduces longer-term prospects for properly planned development. An area of land is put forward by the objector for white land designation.

Council's Response:

17. See the Council's response in paragraphs 32-38.

The following objectors all raised similar issues. Their objections and a joint response are presented below.

1138/2285 Mr D E Dearman
1137/2275 Mrs J E Dearman
1136/2266 Mr I D Dearman
900/1657 Mrs D Ewing
901/1661 Mr D Ewing
260/531 m C Roberts

18. Loss of Green Belt, loss of wildlife, footpaths, secure natural boundary and recreation area. Loss of agricultural land.

Council's Joint Response:

19. The objections relate predominantly to the large mixed-use development at Watnall/Nuthall, for which the Council's response is dealt with separately (Proof 014). However, the Revised Deposit

Draft deleted paragraph 3.96 and policy E11 from the plan (R84) resulting in no areas of white land shown on the proposals map. Accordingly it appears this objection is overcome in part.

1184/3227 Mr A N Hardy

20. The Plan's description for white land is of no value - just putting a 10 year hold on development is no way of safeguarding Green Belt.

Council's Response:

21. Paragraph 3.96 and policy E11 have been deleted from the Revised Deposit Draft (R84) resulting in no areas of white land shown on the proposals map. Accordingly it appears this objection is overcome.

1087/2046 Mr A Taylor

22. There is no explanation in the plan of the basis on which white land was identified, nor what its capacity would be if it were developed. It is not clear what time period it is expected to cater for. The objector recommends a site to be designated as white land in the event that it is not allocated and developed for housing purposes within the plan period.

Council's Response:

23. See the Council's response in paragraphs 32-38.

1159/2429 Mr C Welsh

24. The objector recommends a selection of sites to be allocated as white land on the proposals map.

Council's Response:

25. See Council's response in paragraphs 32-38.

E11 R84 White land - Deletion of policy and reasoned justification

The following objectors all raise similar issues. Their objections and a joint response is presented below:

748/4695 David Wilson Homes

26. Concern is expressed over the deletion of white land in the revised deposit and the removal of policy E11, paragraphs 3.96 and the context of R540. It is unclear why this has occurred with insufficient justification for the proposed course of action. The policy should be reinserted. White land should be designated to accommodate development requirements beyond 2011.

1108/4949 Stamford Homes Limited

27. Object to the deletion of paragraph 3.96 and Policy E11 on the basis that safeguarded land needs to be identified for long-term development needs for the period beyond 2011.

1106/4912 Miller Homes East Midlands

28. Object to the proposed deletion of paragraph 3.96 and Policy E11. We believe that the plan should include provision for white land in order to satisfy housing and other needs beyond the current plan period. Refer to PPG2: paragraph 2.12, Panel Report into the Examination in Public of the Draft

Regional Planning Guidance paragraph 10.37 and Structure Plan policy 1/5. These represent the relevant policy framework for identifying white land.

1130/5001 Hallam Land Management

29. Removal of white land breaches the Structure Plan and PPG2.

1420/5365 Bellway Estates and Giltbrook Landowners Consortium

30. Objection is raised to the deletion of 'white land' from the plan. This amendment conflicts with the approach taken by regional planning guidance, and Structure Plan policy in relation to guidance for Green Belt revision and for safeguarded land. White land is an important and fundamental element of Structure Plan strategy and cannot be omitted without seriously prejudicing future land use strategy. Delete revision R84.

1154/5053 W Westerman Ltd

35. This objection relates to the removal of the policy on safeguarded land in relation to housing site H2j. PPG2 views the necessity to alter Green Belt boundaries at the end of the local plan period as undesirable. It is clear that the revised Green Belt boundary is as tightly drawn around the proposed allocations as possible.

1135/5025 House Builders Federation

31. The plan should make adequate provision for safeguarded land, in accordance with guidance given in PPG2, Structure Plan strategic framework and draft East Midlands Regional Guidance. The plan should include 'white land' to provide long-term permanence to the Green Belt boundary.

Council's Joint Response:

32. The deposit draft plan incorporated an area of white land to the north of the large mixed use allocation at Watnall/Nuthall. As a result of the size and location of this Green Belt allocation it was important to ensure that the new Green Belt boundary was well defined, appropriate and secure, reflecting guidance in paragraph 2.12 of PPG2 and Structure Plan policy 1/5. For this reason, at that time, the Council advocated the designation of an area of white land to provide such a boundary. The area of land was also considered appropriate for further development to allow the planned development to expand in the longer term. No assessment, however, was made on how much white land would be required for the future, and thus no other areas were designated.

33. Since the Deposit Draft was published in February 2000, the government issued PPG3. The principles that emerged from this guidance required the Council to reassess the issues relating to the provision of housing and the approach taken to their allocation. The Revised Deposit Draft increased the densities of new dwellings on all the allocated sites to make more efficient use of land in line with PPG3's advice. Consequently, a reduced take-up of land on the Watnall site meant the Green Belt boundary could be moved to a different suitable and secure boundary without the need to provide an area of white land.

34. One of the main objectives of PPG3 is to promote more sustainable patterns of development by encouraging the development of previously developed land before greenfield sites. It also encourages local authorities to monitor such objectives every five years assessing possible under or over provision of housing land. The Council supports these principles of sustainable development and of limiting the loss of greenfield land. It is the Council's opinion that designating white land is in conflict with these principles, with PPG3's objective to 'plan, monitor and manage', and has the potential to affect the sequential approach to site selection. As a result, no areas of land have been designated as 'white land' for development needs beyond 2011, hence no safeguarding policy is required.

35. The Council supports the view taken by NWT that the pressure to develop identified greenfield white land within the next plan period could potentially discourage development on previously-developed land elsewhere in the borough. This contrasts with PPG3's aim to 'make better use of previously-developed land'. The Council also observes that land identified as 'white land' may not be suitable for development in 10 or 20 years due to potential changes in government policy, urban capacity or transport implications. No justification exists to release land which may not be needed for future development.

36. Paragraph 2.12 of PPG2 states that regional/strategic guidance should provide a strategic framework for considering "safeguarded" land release from Green Belt for future development requirements. At present there is a lack of such a strategic framework and thus an absence of information to determine the scale and distribution of future development needs beyond 2011. This will be provided by the emerging Regional Planning Guidance and the joint Structure Plan Review. The Secretary of State's Proposed Changes to the draft RPG under Policy 7 and paragraphs 3.16 acknowledge the issue.

37. Policy 6 of the Revised RPG states:

"At the next review of development plans, the boundaries of the Nottingham-Derby Green Belts should be critically reviewed for development needs up to 2021... Green Belt boundaries should not need to be extensively altered after such a review within the period of this guidance". This statement is clarified by the Government Office for the East Midlands in a letter dated May 9 2001 (see Appendix in Round Table Paper 3) responding to a query made by RPS Chapman Warren on the matter in respect of sites in Ashfield and Gedling. This advice is equally applicable to Broxtowe. The joint Structure Plan review has commenced with a view to adoption in 2004 and the Council consider that it is this document that needs to determine where additional development might be needed after a county-wide assessment of urban capacity. It is considered inappropriate to determine at this stage where additional development might be needed in Broxtowe. It is entirely possible that no substantial further allocations may be needed in Broxtowe in addition to that already provided for in the current Structure Plan Review. The Council does not wish to release land from the Green Belt without a proper policy framework for longer-term needs. As PPG2 states in paragraph 2.1 'The essential characteristic of Green Belts is their permanence. Their protection must be maintained as far as can be seen ahead'.

38. Structure Plan policy 1/5 provides the policy basis for Green Belt revision and for safeguarded land. Paragraphs 1.86-1.88 provide further advice to support this policy. It advises that local plans "may if they wish" include a policy to safeguard land for longer term needs. It is clear that this is not a mandatory requirement as long as the Structure Plan requirement for development needs to 2011 have been met. The exclusion of a safeguarding policy within the Revised Deposit Draft has not resulted in objection from the County Council with regard to issues of conformity.

228/4155 m S E Page

39. The white land now deleted from the Watnall development will remain under pressure for potential development.

Council's Response:

40. White land comprises areas and sites, which may be required to serve development, needs in the longer term i.e. well beyond the plan period; in this case beyond 2011. White land is allocated for one main reason. Government guidance states that a longer-term perspective should be taken towards reviewing Green Belt boundaries because 'the essential characteristic of Green Belts', PPG2 states, 'is their permanence'. It is the widespread view that removing land from the Green Belt again at the next review of development plans would be against the objectives of the Green Belt. However, the land would not be available for development until after 2011. Policy 1/5 of the Nottinghamshire Structure Plan review details the strategic position. It states 'Any land released from the Green Belt, beyond that required to meet development needs to 2011, should be safeguarded from development until a future Local Plan Review proposes it for development'.

Thus, a future Local Plan would need to allocate an area of land for development, which has previously been designated as 'white land' in this plan, before any development is allowed. Indeed, an area of land, if allocated, would have to go through the Local Plan Review process and potentially a Local Plan Inquiry. However, because an area of land has been removed from Green Belt status the Green Belt has the permanence PPG2 refers to in the next plan.

41. The Revised Deposit Draft deleted from the plan policy E11 and the area of white land on the proposals map situated at Watnall/Nuthall. This results in the Green Belt not having to be moved back further than to satisfy the development needs of the borough for the present plan period up to 2011. Thus, the Green Belt boundary is instead tightly drawn around the proposed Watnall/Nuthall allocation, protecting the areas around it from potential future development. Such land is part of the Green Belt and is rigorously defended and protected under policies K5 and E8 of the plan, which act to prevent the uncontrolled spread of development and to protect the environment. The land previously designated 'white land' would be embraced by these policies.

Inspector's Conclusions

1. The CPRE's, the Wildlife Trust's and others arguments run counter to government advice. The reason why incursions into the Green Belt are needed in the RDDP is because the 1994 Local Plan (and earlier plans) made insufficient provision for "safeguarded land " to meet longer-term development needs. As PPG2 warns, this can only jeopardise the long-term permanency of the Green Belt and lead to the situation, which concerns the CPRE and the Trust with repeated amendments to the Green Belt put forward at subsequent Plan Reviews. The role of "safeguarded land" is to preserve other Green Belt land from development in the longer term affording it the permanent protection envisaged by PPG2.

2. I therefor accept the views of those objectors who argue that the RDDP, contrary to the advice of PPG2 and the SP, makes insufficient provision for "safeguarded land to meet longer-term development needs outside the Green Belt. However, BBC has not undertaken any estimates of the scale of the need for "safeguarded land" nor have they undertaken any appraisal of potentially suitable sites to meet such need. They rely, as other Nottinghamshire LPAs have done consistently, upon the next Plan Review. The discretionary tone of SP policy does nothing to alter this approach. Consequently the issue of Green Belt boundaries is raised at each Plan Review (about every 5 years). As this is controversial, the LPA's strategy appears to favour the minimum land take from the Green Belt, presumably in attempt to minimise the extent of objections on the occasion of each Review. The FDDP identified only one area of "safeguarded land" north of the allocations at Watnall/Nuthall. This was largely in an attempt to define a strong clearly defined boundary, but also as it was considered to be suitable for development in the longer term. This attempt at longer term planning was short lived as R84 and others deleted this "safeguarded land" allocation from the RDDP.

3. R84 may have partly met the Parish Councils', Metropolitan's and a number of individuals specific objections relating to the safeguarded area at Watnall/Nuthall in the FDDP. The original objection of MAFF to Policy E11 related more to the agricultural land quality (ALC) of the "safeguarded land" at Watnall/Nuthall rather than to a matter of principle. My recommendations in respect of Policy H2l, EM2 and partly in respect of EM3f in the RDDP should meet most of these particular objections and other outstanding concerns.

4. BBC's reliance upon the revised PPG3 and its advocacy of higher densities for R84 does not stand scrutiny in the absence of any estimate of the scale of "safeguarded land" needed and with the retention of some allocations in the former Green Belt. The Council's contention that "safeguarded land" is contrary to the principles of sustainable development finds no support in PPG2 or PPG3. Indeed, PPG2, published as long ago as 1995, advises in Annex B on the location of safeguarded land to promote sustainable development. It goes without saying that "white land" should facilitate a sustainable pattern of development, as should other allocations.

5. The purpose of "safeguarded land" is to bring forward land in future plan reviews as and when it is needed without continually nibbling away at the Green Belt and undermining its “permanency”. It should be within the capabilities of Nottinghamshire LPAs to match others elsewhere in planning for the longer term. Neither BBC, the CPRE or the NWT provide any evidence that the existence of "safeguarded land" discourages development of previously developed land. As it is not even allocated for development let alone has planning permission, I cannot see how it could present any realistic competition or a threat to brownfield land. The support given by PPG3 and the government to phasing greenfield housing allocations should help to allay any such fears. Contrary to the Council’s assertion, there is no evidence that the provision of safeguarded land is incompatible with the Plan, Monitor and Manage approach to housing provision. This addresses somewhat different issues and, as Stamford Homes point out, the advice of PPG2 remains extant more than 2 years after PPG3 was revised.

6. BBC misquote Policy 6 of RPG8, which refers to the next review of structure plans, not to development plans. They overlook para 3.15, which describes the task, which the 1996 SP established for the current round of Local Plan reviews. It is unclear whether a revised SP will provide any greater guidance than the 1996 version on the scale and distribution of longer term development needs or even whether any revised SP will proceed to approval, in view of government proposals for review of the planning system. RPG8 also provides no greater guidance on the scale or distribution of "white land" for future LP reviews. The prospects are that the Council could well be faced at the next review of the LP with a context similar to that facing the current review.

7. Whilst Nottingham City and other LPAs have identified greater scope for developing previously developed land, this may not avoid the need for BBC and others to make some incursions into the tight Green Belt around Greater Nottingham either in the short term or the longer term.

8. As BBC recognise in response to Ms Page and others, the allocation of "safeguarded land" in no way enhances its vulnerability to development in the short term. Former Policy E11 protects “safeguarded land” from premature or unjustified development. Land would only come forward for development following allocation in a future LP review (not necessarily the next) and then after it had satisfied the terms of a phasing policy. Neither would arise in the absence of need. Given this and the protection of Policy E11 there should be no need for any particular "safeguarded land" to experience additional blight. The majority of the countryside in England is quite adequately protected from unjustified or premature development without Green Belt designation and policies. In these circumstances, it is difficult to understand any planning grounds for the Council's reticence.

9. I therefor accept the case for identifying "white land"/"safeguarded land" to help meet longer-term development needs and to safeguard the Green Belt from regular incursions. However, the absence of any systematic approach by the BBC to the provision of safeguarded land, imposes severe constraints. I am unable to undertake such a fundamental review myself and it would serve few interests to delay adoption of the RDDP by referring the matter of safeguarded land back to the Council. I therefor have to confine myself to sites put forward by objectors including those put forward by Miller Homes, Holmes Antill, David Wilson, Mr Taylor, Mr Welsh and others. Having said that, the objection sites that have been put forward are extensive and it is difficult to visualise many other realistic, sustainable opportunities within the Borough's Green Belt.

10. Where sites, in locations that promote sustainable patterns of development, no longer fulfil any appreciable Green Belt purpose and where they are not needed to meet development needs within the plan period, I recommend in other Chapters that they be deleted from the Green Belt and identified as safeguarded land under Policy E11. This means that future consideration of such sites would focus on the relevant issues of the time without the need to revisit marginal Green Belt issues time and again. I therefor in subsequent Chapters recommend that Sites H2j Ilkeston Road, Stapleford), H2d (Newtons Lane, Awsworth) and ST3 (Smithfield Avenue, Trowell) be removed from the Green Belt and designated as Safeguarded Land under former Policy E11. They are from my assessment among the least important sites in terms of Green Belt purposes from the large number that have been put before me. They occupy reasonably sustainable locations. They amount to about 15 ha, 4.5 ha and 2.1 ha respectively.

11. Thus, BBC's concern for a "strategic framework" hardly applies. If the few Safeguarded Sites provide too much land to meet requirements for the next review Plan, the Council can simply choose between them and those they reject for allocation can continue as Safeguarded Land. I am satisfied that there are no more suitable "Green Belt" sites than these, apart from those few small sites that I recommend be allocated for housing. If these safeguarded sites prove insufficient to meet the requirements at the next Local Plan Review, the Council will then be able to concentrate their attentions on a smaller number of Green Belt sites. Either way, I see no harm arising from allocating these few Safeguarding Sites now. I therefor conclude that Policy E11 from the FDDP should be re-introduced to the RDDP.

12. The FDDP referred to "safeguarded land" as "white land". This is misleading since the former is land to which Policy E11 applies, whereas some land shown without notation (white land), such as land at Eastwood Hall, would not be subject to Policy E11. The term "white land" should therefor be deleted from Policy E11 and the supporting text. The notation on the PM, as for the FDDP, should distinguish between these two types of land.

Recommendation

13. I recommend that the RDDP be modified by the inclusion of Policy E11 of the FDDP subject to deletion of the term " as white land". It should be supported by a brief supporting paragraph explaining the functions of "safeguarded land" as advised by PPG2 and the approach taken in this review to its definition as

described above in paragraph 9. I recommend in other places that sites H2j, H2d and ST3 be identified as safeguarded land.

E12 DWELLINGS FOR AGRICULTURAL WORKERS

Objections

601	2654	Mr S Rufus	Nottinghamshire Wildlife Trust
1439	3788	Mr P Geldart	Country Landowners Association

Summary of Objection Issues

601/2654: Nottinghamshire Wildlife Trust

1. Need for a clause to specifically address potential impacts on nature conservation interest.

Council's Response:

2. This Council does not consider it is appropriate to draw specific attention to impact on nature conservation within this policy, as this issue is covered by other policies within the Broxtowe Local Plan. Policies E15 Mature Landscape Area, E16 Sites of Special Scientific Interest, E17 Sites of Local Nature Conservation or Geological Interest, (Sites of Importance for Nature Conservation), E18 Species Protection, and EXX Local Biodiversity, all ensure the protection of nature conservation interests.

3. Policies are never viewed in isolation and when determining an application all relevant policies are referred to. Clearly many different issues may be relevant to a particular proposal. To make a policy so broad that reference to other policies is not needed would be impractical and ill-advised as any interest not specifically referred to would be at risk of being overlooked. No policy is capable of standing alone.

4. This Council considers that together with other policies in the Revised Draft Local Plan, E12 will ensure that dwellings for agricultural workers will only be permitted when the demand is justified by genuine need, and where the impact on the surroundings is acceptable.

1439/3788: Country Landowners Association

5. The CLA would prefer to see this policy worded in positive rather than negative terms.

6. In many cases temporary on site accommodation will be necessary until the viability of an agricultural enterprise can be proved, but the Local Plan should also make provision for the development of permanent accommodation on existing and viable enterprises which can meet the criteria.

Council's Response:

7. PPG7, which forms the main context for this policy, highlights the need to thoroughly scrutinise applications to ensure there is a real need for a agricultural workers' dwelling. It is by no means the case that all applications or even the majority of applications for agricultural workers' dwellings will be successful. This is reflected in the way the advice is couched in PPG7; for example Annex 7 uses terms such as "may be acceptable" throughout. Furthermore there are stringent criteria that must be complied with and evidence that must be submitted before an application may even be considered. Given the above the Council considers it is reasonable to word this policy in the negative rather than the positive.

8. Following further consideration the Council propose a change to the text of policy E12 that will overcome the second part of the Country Landowners Association objection. The revised wording is clear and accurate and fully reflects PPG7.

Inquiry Change

IC14 **9. The Council has recommended that the phrase "Where a new farming activity is introduced into the countryside ..." is inserted at the start of the final paragraph of Policy E12.**

Inspector's Conclusions

1. Other Plan policies are quite adequate to protect important nature conservation and other interests and the Plan's Policies are intended to be read as a whole, as CD118 makes clear. It would be cumbersome and potentially misleading to attempt to include all or selective potential interests in each and every Policy of the Plan.

2. Whilst, a positive expression of policy is more in keeping with the approach in the Act, the RDDP generally adopts the negative style and it would be somewhat pedantic to alter them all and misleading to alter only some.

3. IC14 usefully clarifies the final part of Policy E12.

Recommendation

4. I recommend that the RDDP be modified as set out in IC14.

E13 PROTECTED OPEN AREAS

Objections

1217	2897		St. John's College Browne Jacobson Planning Unit
1486	4050	Mr J Gough	RJB Mining (UK) Ltd
1184	3228	Mr AN Hardy	
601	2655	Mr S Rufus	Nottinghamshire Wildlife Trust
1118	2183	Mr J Holmes	
			Stoneleigh Planning Partnership

Summary of Objection Issues

1217/2897 St John's College

1. Adjustments should be made to the boundaries of the Protected Open Area at Beeston/Bramcote in order to "allow the College to satisfy its own demands for further development".

Council's Response:

2. In the Council's opinion it would be illogical and inappropriate for the boundaries of Protected Open Areas to be defined according to the development demands of adjacent landowners. In the Council's opinion the existing boundaries are clear and logical, as they are based on the boundaries of the college playing fields and golf course. The area designated provides an important break in the built up area and creates a 'green' link through to the golf course. The area also contributes to visual amenity, and provides recreational opportunities, and environmental diversity. The appropriate procedure would be for any application for development to be considered in relation to the existing policy, with an assessment being made as to whether the development would "detract from the character or function" of the area.

3. Refer also to the Addendum to Proof 005.

1486/4050 RJB Mining (UK) Ltd

4. The words "detract from" should be replaced with "have an unacceptable effect on".

Council's Response:

5. The proposed change would reduce the clarity of the policy, as it would raise the question of what constitutes an "unacceptable" effect.

Objectors Raising Similar Issues:

6. Although registering an objection to E13 both the following objectors state they support the policy. Their objections and a joint response are presented below.

1184/3228 Mr A N Hardy

7. The objection form refers to policy E13, however the comments relate to the proposal in policy T10h for a road to be taken through the Protected Open Area at Nuthall.

601/2655 Nottinghamshire Wildlife Trust

8. The distributor road through the Nuthall Protected Open Area (policy T10h) should be deleted, together with the rest of the proposed development at Watnall (sites H2f/EM2/EM3f).

Council's Joint Response:

9. The Council understands that the objectors support the protection of the Protected Open Area at Nuthall. Their comments concerning the proposed road are considered in the Council's response to objections to the proposed development at Watnall (policies H2L/EM2/EM3f) (Proof 14). In brief, however, the Council considers that, with careful design, the impact of the new road on the Protected Open Area can be limited. The Council also considers that a limited impact on the Protected Open Area is an unfortunate, but necessary and acceptable, consequence of the benefits, which the Watnall development will bring in terms of the provision of homes, employment, public open space, community facilities and public transport facilities.

1118/2183 Mr. J Holmes

10. The Protected Open Area at Nuthall should be reduced to cover only Hempshill Hall and its walled garden. The remaining land should be developed for housing, and, if the Watnall development does not go ahead, for an NET station, bus station and park-and-ride site.

Council's Response:

11. The proposals for housing etc are considered in the Council's response to objection 1118/2184, in which Mr. Holmes proposes site Nu(b) and associated land for development (Proof 105). The Council does not agree that the Protected Open Area should be reduced in size. As stated in paragraphs 3.100-3.101, the area is important to the setting of the listed buildings and to the approach to the city. It also provides an important break in the built-up area and contributes to visual amenity. The site would be inappropriate for a NET station, bus station and park-and-ride site given the existing and proposed facilities in very close proximity at Phoenix Park. The policy has the "full support" of Nuthall Parish Council (representation 1006/2071).

Inspector's Conclusions

Policy Issues

1. The term "unacceptable effect" describes the outcome rather than guiding the process of consideration. The term "detract" implies the diminution of character or function and is more appropriate.

Watnall/Nuthall and Hempshill Vale

2. The NWT's and Mr Hardy's objections are considered in later Chapters in respect of the proposed allocations at Watnall/Nuthall. Mr Holmes objection is dealt with in Chapter 10 in respect of omission site Nu (b), where I consider the impact of the M1MMS proposals for new slip roads for Jct 26 as well as the proposed new roads to serve the W/N allocations. Retention of the small area of Hempshill Hall and its walled garden alone would be inconsistent with the functions of Protected Open Areas. I conclude that for the time being the POA at Hempshill Vale should be supported in its entirety, although its relevance should be reviewed if the new slip roads are developed.

St John's College

3. I recognise the importance of certain open areas to the character and amenity of the more built up parts of the Borough. The POA in the grounds of St John's College, the adjoining school site and Beeston Fields GC provides an important open lung between the built up area of Beeston and the extensive Green Belt area to the west of Chilwell Lane. This area of private open space RC5 also makes a contribution to the local environment.

4. However, these designations and policies have not prevented building in the secondary school grounds to the south, which is much more compromised by development.

5. Both the Council and I recognise the importance of St John's College to the Borough and its ambitions to be the College of first choice for Anglican students. I note the Medium Term Planning Strategy and in particular the College's need, at the appropriate time, to improve its facilities and to expand its capacity, particularly in terms of student accommodation and study facilities, although at present plans are somewhat indefinite. The Council also wishes to assist the College in its future development. These factors need to be balanced against environmental considerations.

6. BBC's stated approach is to assess any planning application on its merits. However, this is no more than their statutory duty. Their view that designation will not necessarily preclude new development that cuts into the POA, provides little guidance and less certainty. Again, they are obliged, in any case, to balance all the relevant issues.

7. I see little parallel between the boundaries of Conservation Areas and POAs. The latter, unlike the former, are subject to objection through the LP process. I cannot anticipate all potential future developments at the College. However, I can consider the appropriateness of the current extent of the POA and of RC5 and I note that no specific analysis was available to support the precise boundaries chosen and shown on the PM.

Area 2

8. The College's objection site falls into two parts with different characteristics. Both the original and the reduced Area 2 put forward by the College for deletion from the POA cut arbitrarily across a well marked grassed bank. Exclusion of these particular areas would appear incongruous and artificial. The College accepted that the Area/s had been drawn to square off from nearby buildings, rather than to respect landscape features and agreed that the boundary should not cut across the break of slope. Furthermore, Area 2's development potential is compromised by the presence of a group of fine mature trees. These contribute significantly to the character and appearance of this POA and RC5. Some of these trees are protected by a group T.P.O. and some may be used by roosting bats, but further surveys would be needed to confirm this.

9. Although views of the site from the direction of Chilwell Lane are curtailed by boundary features, a separate building on Area 2 would be prominent in the few that are available. The background of buildings to the east and north is softened by intervening trees and planting. Whilst little local deficiency of formal or informal open space would result from the loss of this particular site, its development would detract from the open nature and the environmental and landscape character of the adjoining open space to the south and south west of which it forms an integral part.

10. Although not traversed by any direct public footpaths, the POA in the College grounds is important in providing a corridor linking the extensive open break of Beeston Fields Golf course with the open Green Belt area to the west, which extends to Long Eaton in Derbyshire. I therefor consider that the protection of both versions of Area 2 in substantially its present state outweighs the benefits of providing a site for built development on this part of the campus. I note that the College would be happy with a smaller area. However, in the absence of features on the ground and specific building proposals, it is not for me to define one. It would be for the Council to judge whether a modest extension of the residential block to the north would be acceptable in terms of its impact upon the POA and RC5. The College said that a Principle's dwelling does not need to be substantial and might not need a boundary feature. Vehicular access might also need to be designed to minimise its impact.

Area 1

11. The current northern boundary of the POA and RC5 in Area 1 is quite arbitrary. It runs from the SE corner of the ha-ha about 10 m north of a row of semi-mature evergreen trees, of little individual or collective merit, cutting across a grassed area, which exhibits no difference in character either side of the boundary. The background to this area is the 3 storey Peach House. This part of Area 1 is largely screened by the row of conifers and other trees from external views. It is also screened by planting from The Grove and from the core of the Conservation Area to the north. Development of a student accommodation block on this part of the site would have little impact upon the essential part of the POA, the provisions of Policy RC5, the CA or the setting of the listed building, The Grove. Other modern blocks are much more prominent in relation to the latter. A new block would be seen from most viewpoints against the background of Peach House and the dwelling block to the east. The habitat that is provided by this Area has little value.

12. The southern boundary of Area 1 put forward by the College also runs arbitrarily across a grassed area south of the row of conifers; as they agreed it is marked by no feature on the ground.

13. In consequence, the northern boundary of the POA and RC5 should be redefined to continue the southern elevation of the residential block to the east returning to the west to meet a projection of the eastern wall of the ha - ha to The Grove. This corresponds broadly with the row of conifers running east to west. This excluded area would be about half the depth of that sought by the college. However, it would leave a plot outside the POA in front of Peach House averaging about 34 m in depth, according to my measurements on site, rather than those proffered by the objector; although more consistent with the Council's measurements. This should be more than sufficient to accommodate a new student accommodation block either parallel to or at right angles to Peach House, without affecting the light of either. The LPA's standard for facing windows is 20 m, which might be relaxed for student rooms. Existing planting would help to soften any impact upon the listed Grove House. The illustrative L shaped block advanced by the college would appear to relate much less well to the form of existing buildings.

14. It would be possible to retain the row of conifers with their limited current spread, although this is a somewhat alien feature in the landscape in terms of species and form. The opportunity could be taken to plant other more appropriate species in a more informal grouping in the grassed fringe to the south. As the Council conceded, the conifers may not be the sort of trees that are wanted, aside from their screening effect and this could be achieved in time with more appropriate planting to the south. The willow and fruit trees in the grassed area have very limited value. The loss of the above part of Area 1 would not narrow the POA and RC5 noticeably on the ground and would have no apparent effect upon their functions or on that of the Conservation Area.

Recommendation

15. I recommend that the northern boundary of the POA and RC5 in Area 1 at St John College be redrawn as set out above and the site be shown without notation on the PM. Otherwise I recommend that no modification be made to the RDDP in

respect of these objections.

E14 PROMINENT AREAS FOR SPECIAL PROTECTION

Objections

1486	4051	Mr J Gough	RJB Mining (UK) Ltd
1363	3411	Mr D Herd	Countryside Agency - East Midlands Region
111	113	Mr G Staddon	Lafarge Aggregates Ltd
1155	2489		Greasley Parish Council
			Andrew Thomas Planning

Summary of Objection Issues

1486/4051 RJB Mining (UK) Ltd

1. The words "would adversely affect" should be replaced by "would have an unacceptable adverse effect on"

Council's Response:

2. The proposed change would reduce the clarity of the policy, as it would raise the question of what constitutes an "unacceptable" adverse effect.

1363/3411 Countryside Agency

3. The policy should be deleted unless a full justification and review of the designation can be provided. The rigorous examination of the designation advised by PPG17 (paragraph 4.16) does not appear to have been carried. The policy and reasoned justification do not give a clear reason and basis for providing additional protection above and beyond that provided for by policies for the protection of the countryside as a whole and the designations are not backed up by a clear and defensible methodology. The adoption of the "countryside character" approach (recommended in representation 1363/3409) would do away with the need for this designation.

Council's Response:

4. A sentence has been added, by means of revision R85, to confirm that the policy is based on Structure Plan policy 1/3 and the particular ridgelines and hills identified in paragraph 1.89. The criteria used are identified in paragraph 1.90 of the Structure Plan, ie:

- visual prominence;
- attractiveness;
- provision of strong sense of containment to the urban area;
- a breach would affect the open character of adjacent countryside.

5. The reason for providing the additional protection is also explained in paragraph 1.90 of the Structure Plan, ie these areas need protection from any development, which would damage their visual quality, including development, which is not prohibited in principle under Green Belt policy. This point is confirmed in paragraph 3.103 of the Local Plan reasoned justification.

6. The issue of the "countryside character" approach is dealt with in the Council's response to the Countryside Agency's representation 1363/3409, which proposes an additional policy dealing with this issue. (Proof 006).

111/113 Lafarge Redland Aggregates Ltd

7. The policy should be deleted as the MLA and Green Belt designations afford adequate protection.

Council's Response:

8. The Bramcote Hills/Bramcote Ridge area as identified in policy E14 is not designated as either MLA or Green Belt. Prominent ridgelines are identified in the Structure Plan (policy 1/5 and paragraphs 1.89-1.90) as being of particular importance due to their visual prominence and attractiveness, and due to the facts that they provide a strong sense of containment to the urban area and breaching them would affect the open character of adjacent countryside. These criteria are not directly relevant to the designation of land as either Green Belt or Mature Landscape Area. As noted in paragraph 3.103, the protection afforded by Green Belt policy is not considered by the Council to be adequate, as developments normally permitted by Green Belt policy could damage the visual quality of these areas. Therefore, in the Council's opinion, a distinct designation is appropriate and necessary.

1155/2489 Greasley Parish Church

9. The Giltbrook Valley should be afforded protection by policy E14.

Council's Response:

10. The Giltbrook Valley is an area of attractive and valuable countryside, which provides a very important Green Belt gap between built-up areas. However, as a valley it is of a different character to the areas covered by policy E14 which are ridgelines and hills. It does not meet the criteria referred to in the Structure Plan (paragraphs 1.89-1.90) in that its lower parts are not visually prominent from a wide area and it does not provide a sense of containment to the urban area in the same way that ridge lines and hills can do. It would not therefore be appropriate for this area to be designated under policy E14. The area will however continue to receive very strong protection from development due to its Green Belt status and due to the fact that part of it is designated as Mature Landscape Area.

Inspector's Conclusions

1. PPG7 advises in para 2.15 that LPAs may find the Countryside Character approach helpful as they review their local countryside designations. RPG8 Policy 34 advocates the Character Areas as a useful context for development plan policies to ensure new development conserves and enhances local distinctiveness. Both these leave much to the individual LPA's discretion. PPG7 describes the Countryside Character approach as descriptive and not an additional layer of countryside protection or designation. It advises that the approach provides a framework against which to set finer grain information held by LPAs, which may guide change and inform the preparation of development plans. The Countryside Character Approach categorises areas in respect of the interaction of physical and ecological features with land use and other human activity. It describes areas in terms of typical features, which may not reflect the particular circumstances of individual parts. The Countryside Character Approach does not make judgements about their relative worth. For example, the coalfields area contains tracts of relatively unspoilt attractive landscape, as well as some degraded by development. The appropriate actions and thus policy will vary between the different parts.

2. As RPG8 advises in para 5.13, further evaluation of land quality and sensitivity to change at the regional scale needs to be undertaken in order to help define major environmental constraints and the region's capacity for development. None of the Countryside Character Areas correspond with or even help to define the Prominent Areas identified in the SP Policy 1/5; the Nottingham conurbation being simply shown as Nottingham. In the light of this it is difficult to visualise how the Countryside Character Approach could substitute for or do away with the need for Prominent Areas for Special Protection and Policy E14.

3. PPG7 advises in para 4.16 that LPAs should only maintain or extend local countryside designations where there is good reason to believe that normal planning policies cannot provide the necessary protection.

4. Contrary to the Countryside Agency's opinion, SP para 1.90 provides the justification and support for the identification of the Prominent Areas which are derived from SP para 1.89 and described in R85 of the RDDP. It also presents the case for a Policy to protect them. It identifies that these areas are visually prominent, provide a strong sense of containment to the urban area and if breached would affect the open character of adjacent countryside. It goes on to say that they are also areas of attractive countryside and should be protected from any development that would damage their visual quality, including those developments not prohibited in principle by Policy 3/2 (Green Belts). I am satisfied therefor that their protection could only be achieved by separate identification and by a separate Policy. In consequence, I fail to see what further rigorous examination is required; the justification is clear enough. Paragraph 3.103 of the RDDP explains that some development acceptable under Green Belt Policy E8 would not be permitted in the Prominent Areas identified and R85 explains their derivation.

5. Whilst relatively small in extent, these Prominent Areas are important to the character, attractiveness and distinctiveness of the conurbation. They are visible in local as well as in longer views. They provide a green and mostly wooded contrast with and definition of the extensive built up areas of Greater Nottingham. Their importance merits protection, which is not afforded by other plan policies. As Prominent Areas do not in some areas correspond with MLAs, Policy E15 could hardly afford them all protection and is, in any case, more permissive. Whilst, on mine, if not BBC's, assessment, all Prominent Areas are in the Green Belt, Policy E14 seeks, justifiably in my view, to control some developments which otherwise might be appropriate in Green Belt areas.

6. The term "unacceptable" describes the outcome rather than the criteria for decision making. It goes without saying since there could be little objection to an acceptable adverse effect.

7. The Giltbrook Valley does not have the same prominence and does not meet the criteria for Prominent Areas. It does not merit the same degree of protection. It is protected by Green Belt policy and in parts by Policy E15, which applies to Mature Landscape Areas.

Recommendation

8. I recommend that no modification be made to the RDDP in respect of these

objections.

E15 MATURE LANDSCAPE AREAS

Objections

3.108	***R86***		***Mature Landscape Areas - Addition of reference to a review of MLAs***	
1486	5400	R86	Mr J Gough	RJB Mining (UK) Ltd
E15			***Mature Landscape Areas***	
1155	2490			Greasley Parish Council
				Andrew Thomas Planning
598	2649		Mr I Brown	CPRE - Broxtowe Group
599	2687		Mr G Foster	Nottinghamshire County Council
1486	4052		Mr J Gough	RJB Mining (UK) Ltd
1169	3665		Cllr M Rich	
112	121		Mr PR Tame	
1085	2260		Mr JM Tebbs	SABRHE

Summary of Objection Issues

3.108 R86 Mature Landscape Areas - Addition of reference to a review of MLAs

1486/5400: RJB Mining (UK) Ltd

1. This change reinforces the company's previous objection. If a review of the MLAs is currently in progress then any reappraisal should not be considered now. It would be preferable to include the appraisal in an SPG where interested parties are given the opportunity to participate in the process.

Council's Response:

2. The Council refers to its response to RJB Mining's original objection to Policy E15 in the Deposit Draft Plan, objection 1486/4052 (see below).

E15 Mature Landscape Areas

115/2490: Greasley Parish Council

1. The area of land adjacent to Site Ea8 in the Consultation Draft should be included within the MLA designation.

Council's Response:

2. The County Council has undertaken a review of the MLAs in the borough, including the boundaries of the current designations and the potential to designate new areas. The information and the proposed changes were approved by Nottinghamshire County Council's Policy Committee on 10 September 2001 and are attached. The land adjacent to site Ea8 - Giltbrook has not been included within the new MLA designations, specifically that named "Greasley and Watnall Fields". This landscape is not considered appropriate for designation under the stringent definitions and criteria used in this review, taken from PPG7 and the recommendations outlined in the David Tyldesley Report 'Nottinghamshire Landscape Guidelines'.

1085/2260: SABRHE

3. The area of Eastwood Hall and park should be designated as a MLA to provide further protection to the park.

Council's Response:

4. The County Council has undertaken a review of the MLAs in the borough, including the boundaries of the current designations and the potential to designate new areas. The information and the proposed changes were approved by Nottinghamshire County Council's Policy Committee on 10 September 2001 and the land at Eastwood Hall has not been included within the new MLA designations. This landscape is not considered appropriate for designation under the stringent definitions and criteria in this review; taken from PPG7 and from the recommendations outlined in the David Tyldesley Report 'Nottinghamshire Landscape Guidelines'.

598/2649: CPRE – Broxtowe Group

5. Add the words: 'The conservation and maintenance of features important to the mature landscape features will be positively encouraged', to the policy.

Council's Response:

6. Advice from the Government Office for the East Midlands is that general statements of intent such as this should not be included in policies.

1486/4052: RJB Mining (UK) Limited

7. Object in principle until MLAs reappraised. Policy wording needs amending in light of paragraph 4.16 of PPG7, which indicates that local designations carry less weight than national designations and development plans should not apply the same policies to them.

Council's Response:

8. The County Council has undertaken a review of the MLAs in the borough in light of the David Tyldesley Report and to reflect the Nottinghamshire Landscape Guidelines more closely. The information and proposed changes were approved by Nottinghamshire County Council's Policy Committee on 10 September 2001 and is attached. The policy reflects Structure Plan policy 3/3, which identifies the need for a policy in order that these special areas are acknowledged and protected in Local Plans. The policy does not however seek to protect this local designation in the same way as national designations where there is a strong presumption against development or disturbance affecting the sites, as opposed to minimising the harm of potential development.

1169/3665 Councillor M Rich

9. The plan lists Prominent Areas for Special Protection and SSSIs but not MLAs.

599/2687 Nottinghamshire County Council

10. The level of description for each MLA is insufficient to justify reasons for designation and to satisfy PPG7. Need to review MLA boundaries to take account of PPG7 and recommendations in the David Tyldesley Report, Nottinghamshire Guidelines and assessment guidance by the Countryside Agency.

Council's Joint Response:

11. Following further consideration the Council wishes to suggest the following change.

Inquiry Change

IC15 12. **The Council has recommended that the revised boundaries of the MLAs are depicted on the Proposals Map (refer to the County Council's Committee Report, 10/09/01) and expanded descriptions are provided for each MLA within the Appendix. The Inspector is also invited to recommend that the words "as defined on the Proposals Map" be deleted from the first paragraph of Policy E15, and that a list of the Mature Landscape Areas should be added at the end of the policy introduced with the following wording "Existing Mature Landscape Areas are identified on the Proposals Map and listed below.**

a) Brinsley Forge
b) Brinsley Hall
c) High Park
d) Watnall Coppice
e) Greasley and Watnall Fields
f) Shilo North
g) Babbington/Verge Wood
h) Cossall
i) Strelley
j) Trowell
k) Trowell Hall
l) Bramcote"

13. The revised wording provides additional information, which aids clarity and understanding.

112/121 National Farmers' Union

14. Against the MLA concept - they have been used to prevent farm diversification development. We would hope new farm diversification projects will be allowed within MLAs where their development is not an eyesore for the environment.

Council's Response:

15. The policy reflects Structure Plan Policy 3/3. The Structure Plan identifies the need for a policy in order that these special areas are acknowledged and protected. The policy reflects PPG7, paragraph 4.16 which states that authorities should rigorously consider the function and justification of local countryside designations, and only maintain or extend them where normal planning policies cannot provide the necessary protection. The County Council commissioned an independent review of the need for and the effectiveness of the MLA designation as a whole. The review endorsed the need for MLAs to be identified as well as the way in which the designation had been developed and applied.

16. The County Council has undertaken a comprehensive review of the MLAs in Broxtowe applying a rigorous set of criteria to take account of the recommendations resulting from the independent review. The information and proposed changes were approved by Nottinghamshire County Council's Policy Committee on 10 September 2001 and will be available at the Public Inquiry for scrutiny. PPG7 identifies that such designations may unduly restrict acceptable development and economic activity; thus the County review is to incorporate within the description and analysis of

each MLA 'a PPG7 test', defining what it is that requires extra protection and why the protection is required.

17. All the MLAs in the Borough are situated in the Green Belt, thus Policy E8f, would deal with farm diversification projects in conjunction with Policy E15. This approach is entirely in accordance with PPG2.

Inspector's Conclusions

1. MLAs have not simply been carried forward from the 1994 LP without scrutiny. Their function, extent and character have already been subject to re-appraisal by the NCC and their consultants. The results of this have re-affirmed their purpose and confirmed their boundaries in IC15, which so far as I can tell exhibit little change. There is no reason now why a review should be deferred to some future Supplementary Planning Guidance rather than be included now in the RDDP. PPG12 para 3.17 advises that plans should not attempt to delegate the criteria for decisions on planning applications to SPG or to development briefs.

2. Policy E15 concentrates, rightly, upon the degree of harm that proposed developments might cause. It does not seek the same degree of protection or carry the same weight as national designations. The term "unacceptable" describes the outcome rather than guiding the decision and is, as I conclude, elsewhere an unnecessary elaboration.

3. Although the grounds of Eastwood Hall are attractive, they do not meet the criteria for designation. They have already seen major development in recent years and elsewhere I endorse their exclusion from the Green Belt. There is no basis either to designate them as a SINC, despite their range of species. That designation is normally the responsibility of the Nottinghamshire Biological and Geological Records Centre and they have not identified a suitable case.

4. The area immediately along the Gilt brook adjacent to Ea8 is included in the MLA. The adjoining areas and that to the north adjoining the more extensive MLA around Greasley do not meet the criteria adopted in terms of mature landscape features that are relatively unaltered by agriculture, opencasting or other developments. These areas however, lie within the Green Belt, which should afford protection against inappropriate development.

5. The conservation and maintenance of important features such as woods and hedgerows could be undertaken by other powers. The use of these is however, a matter for the Council who seem disinclined to commit themselves to specific action.

6. IC15 put forward by the BBC brings matters up to date and lists the MLAs defined. It should be supported.

7. Provided that farm diversification proposals accord with this Policy they may, subject to other polices, receive approval. However, where such proposals would cause

harm to MLAs they would rightly be rejected unless they can fulfil the other criteria of the Policy, which has a long history and has recently been subject to review.

Recommendation

8. I recommend that the RDDP be modified as set out in IC15 but that no other modifications be made in respect of the above objections.

E16 SITES OF SPECIAL SCIENTIFIC INTEREST

Objections

3.110		***Sites of Special Scientific Interest***		
599	2699		Mr G Foster	Nottinghamshire County Council
601	2583		Mr S Rufus	Nottinghamshire Wildlife Trust
3.110 R88		***Sites of Special Scientific Interest – Addition of references to the need for development and harm to sites value***		
1155	5087	R88		Greasley Parish Council
				Andrew Thomas Planning
598	4362	R88	Mr I Brown	CPRE - Broxtowe Group
1383	5299	R88	Mr S Clifton	English Nature East Midlands Team
3.112		***Sites of Special Scientific Interest***		
599	2698		Mr G Foster	Nottinghamshire County Council
E16		***Sites of Special Scientific Interest***		
1429	3759			British Wind Energy Association
				Brodies W.S.
1383	3529		Mr S Clifton	English Nature East Midlands Team
601	2663		Mr S Rufus	Nottinghamshire Wildlife Trust
111	117		Mr G Staddon	Lafarge Aggregates Ltd
E16 R89		***Sites of Special Scientific Interest – rephrasing of references to adverse effects on sites of Special Scientific Interest***		
1108	4950	R89	Mr M Bagshaw	Stamford Homes Limited
				Barton Willmore Planning Partnership
598	4420	R89	Mr I Brown	CPRE - Broxtowe Group

16b/d/e ?

Summary of Objection Issues

3.110 R88 Sites of Special Scientific Interest - Addition of references to the need for development and harm to sites value

599/2699 Nottinghamshire County Council

1. The word “inappropriate” should be deleted from the last sentence.

Council’s Response:

2. The word “inappropriate” has been deleted (revision R88).

599/2698 Nottinghamshire County Council

3. The paragraph should refer to Structure Plan policy 3/7 rather than 3/3.

Council's Response:

4. The policy reference has been corrected in the Revised Deposit Draft.

601/2583 Nottinghamshire Wildlife Trust

5. The Trust considered that reference should be added to the national importance of SSSIs. They support the addition of this reference by revision R87.

Council's Response:

6. The proposed reference has been added (revision R87).

1383/5299 English Nature

7. The final two sentences should be replaced by:

"They will, therefore, continue to be protected from development of local significance. Where the reasons for development outweigh the national value of the SSSI, the applicant shall avoid harm to the SSSI's features through mitigation. Where this is not possible, compensation for the loss of the SSSI's features of interest will be required".

Council's Response:

8. With regard to the first proposed sentence, in the Council's opinion SSSIs should also be protected from development of more than purely local significance. The Council accepts the advantages of the second and third proposed sentences, and therefore proposes an inquiry change. The proposed wording gives greater emphasis to protecting the SSSI's features, and where appropriate compensating for any loss.

Inquiry Change

IC16

9. **The Council has recommended that the last sentence of paragraph 3.110 should be replaced with "Where the reasons for development outweigh the value of the SSSI, the applicant shall minimise harm to the SSSI's features. Compensation for the loss of the SSSI's features of interest will be required". The Inspector is also invited to recommend that at the start of the final sentence of the policy the word 'Existing' is added.**

1155/5087 Greasley Parish Council

10. The wording of revision R88 sets out a good basis for dealing with planning applications and should be included as a policy, perhaps within E16, rather than as a supporting statement/justification.

Council's Response:

11. Government advice is that statements of Councils' intent should not be included within policies. The statement of intent in this case to seek compensatory measures would not therefore be appropriate for policy status. English Nature, whilst objecting to the wording of R88, has not suggested that this issue should be referred to directly in policy and it supports the revision to the wording of policy E16 (revision R89, representations 1383/5299 and 1383/5297).

598/4362 CPRE

12. The words “where appropriate and practical” should be deleted.

Council’s Response:

13. The final sentence of the paragraph is now proposed to be replaced and this will involve the deletion of the words “where appropriate and practical”. Refer to IC16 proposed in response to objection 1383/5299 above (paragraph 7).

1429/3759 British Wind Energy Association

14. The words “any unacceptable effect” should be deleted and the policy should state that permission would be granted for development, which is “not likely to have a significantly detrimental effect”.

Council’s Response:

15. The words “any unacceptable effect” have been deleted by revision R89 and replaced by the phrase “an adverse effect”. This phrase is, in the Council’s opinion, more precise than the objector’s alternative, which would raise questions as to what was “likely” and “significant”. The Council’s wording has the support of English Nature and the Nottinghamshire Wildlife Trust (representations 1383/5297 and 601/4625).

1383/3529 English Nature

16. English Nature objected to the original policy wording but supports the substantial revisions to the wording made by revision R89.

Council’s Response:

17. The revised policy wording is very similar to that proposed by English Nature and the Council assumes that revision R89 has overcome the original objection.

601/2663 Nottinghamshire Wildlife Trust

18. The Trust objected to the original policy wording and recommended that the wording proposed by English Nature should be employed (see representation 1383/3529). However the Trust supports the substantial revisions to the wording made by revision R89.

19. The Trust also objected to the SSSIs being specified in the policy, as further SSSIs could be designated during the Plan period.

Council’s Response:

20. The Council assumes that revision R89 has overcome the original objection to the policy wording.

21. PPG9 states that the proposals map should identify the areas to which policies apply (paragraph 25) and it is therefore appropriate for the areas also to be listed within the policy. English Nature supports the listing of SSSIs within the policy (representation 1383/3529). The policy relates to any SSSI and it would therefore apply to any additional sites designated during the Plan period.

111/117 Lafarge Redland Aggregates

22. The policy should be revised “in line with guidance contained in PPG9 paras 27, 28, 29”.

Council’s Response:

23. The section of PPG9 dealing specifically with local plans is paragraphs 24-26. The policy has been revised in accordance with the guidance in those paragraphs, particularly by the addition of criteria against which a development affecting a site will be judged (revision R89).

1108/4950 Stamford Homes Ltd

24. The phrase “adverse effect” should be replaced by “unacceptable adverse effect”.

Council’s Response:

25. The phrase “adverse effect” is, in the Council’s opinion, more precise than the objector’s alternative, which would raise the question as to what was “unacceptable”. The Council’s wording has the support of English Nature (representation 1383/5297).

598/4420 CPRE

26. The words “directly or indirectly” should be reinstated in respect of adverse effects.

Council’s Response:

27. These words are unnecessary as the policy relates to any adverse effects, whether direct or indirect. The Council’s wording has the support of English Nature and the Nottinghamshire Wildlife Trust (representations 1383/5297 and 601/4625).

Inspector’s Conclusions

1. R87 and R88 should have met the Nottinghamshire Wildlife Trust's, the NCC's and the CPRE's objections to the FDDP.

2. I agree with the Council that SSSIs should be protected from development of local and wider significance. Thus the 1st sentence put forward by EN is not appropriate. However, their 2nd and 3rd sentences are an improvement. These are reflected in IC16, which should be supported.

3. However, IC16 is more a statement of policy rather than of explanation or justification. It could be used to determine planning applications and/or to impose conditions or obligations upon planning permissions. It should, according to PPG12 para 3.17, be included within the Policy rather than in para 3.110. In order to achieve consistency with my recommendations on Policy E18 the phrase “secured by planning conditions or negotiated planning obligations” should be added to the end.

4. Paragraph 3.112 now refers to SP Policy 3/7.

5. R89 deleted the terms "any unacceptable effect" as requested by the BWEA at the FDDP but adopted the term “adverse effect” rather than “significantly detrimental effect”. The term “significant” is unhelpful since there could be little objection to an insignificant effect. R89 appears to have met English Nature's objection to E16 in

the FDDP. The re-instatement of term "unacceptable", requested by Stamford Homes, describes the outcome rather than the criteria for decisions and is unhelpful.

6. Policy E16 would apply to all SSSIs whether listed or not. The Policy and the PM simply list and identify those currently designated and I can see no disadvantage in that. Indeed it reflects the advice of PPG12 to identify the areas to which policies apply.

7. PPG9 paras 27 and 28 deal with development control matters; in particular the use of conditions and obligations where there is a risk of damage. Paragraph 29 says that development proposals affecting SSSIs must be subject to special scrutiny. Paragraphs 24 - 26 give advice on the content of local plans in respect of nature conservation interests. With the exception of the addition of IC16 that I support above, I find Policy E16 in the RDDP to provide a reasonable reflection of the advice in PPG9.

8. It is unnecessary to re-instate the terms “directly or indirectly” since both are covered by the terms of the Policy.

Recommendation

9. I recommend that the RDDP be modified as set out in IC16 but by including this statement in Policy E16 after the 1st sentence with the phrase “secured by planning conditions or negotiated planning obligations” added to the end.

E17 SITES OF LOCAL NATURE CONSERVATION OR GEOLOGICAL INTEREST

Objections

3.114		***Sites of Local Nature Conservation or Geological Interest***	
601	2667	Mr S Rufus	Nottinghamshire Wildlife Trust
3.115		***Sites of Local Nature Conservation or Geological Interest***	
1388	3617	Ms E Marshall	Environment Agency, Lower Trent Area
3.116		***Sites of Local Nature Conservation or Geological Interest***	
599	2710	Mr G Foster	Nottinghamshire County Council
E17		***Sites of Local Nature Conservation or Geological Interest***	
1429	3760		British Wind Energy Association Brodies W.S.
598	2647	Mr I Brown	CPRE - Broxtowe Group
1383	3521	Mr S Clifton	English Nature East Midlands Team
599	3546	Mr G Foster	Nottinghamshire County Council
599	2709	Mr G Foster	Nottinghamshire County Council
1486	4053	Mr J Gough	RJB Mining (UK) Ltd
1388	3616	Ms E Marshall	Environment Agency, Lower Trent Area
111	118	Mr G Staddon	Lafarge Aggregates Ltd

E17 R92 ***Sites of Local Nature Conservation or Geological Interest - Clarification of the***

sites to which the policy relates and addition of a clause regarding 'special reasons'

598	4421	R92	Mr I Brown	CPRE - Broxtowe Group
1383	5300	R92	Mr S Clifton	English Nature East Midlands Team
601	4626	R92	Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

3.114 Sites of Local Nature conservation or Geological Interest

601/2667 Nottinghamshire Wildlife Trust

1. The word "local" should be deleted, as SINCs may currently be of either district or county level importance, and in future they will all be of county-level importance. The following phrase should be added at the end of the last sentence: 'as a site of critical importance to nature conservation in the county context'.

Council's Response:

2. PPG9 (paragraph 18) draws a distinction between "international", "national", "local" and "informal" designations. As the Trust acknowledges, the SINC designation is a "local" one in the terms that the PPG uses the word and the deletion of the word would therefore, in the Council's opinion, be inappropriate.

3. SINCs are, by definition, 'of importance' to nature conservation and not necessarily 'of critical importance'. The proposed additional phrase would therefore, in the Council's opinion, be inaccurate and inappropriate.

Inspector's Conclusions

1. It is important, as PPG9 advises, to maintain a proper distinction between sites of national importance and sites of local importance. I find the latter term an accurate description in terms of the responsibility for their designation. I find it difficult to accept the contention of the NBGRC that all sites are of county significance. It seems that the NBGRC has decided to drop its previous two-part classification, which distinguished between sites of county importance and those of more local importance. This revision does not provide the latter with wider significance than they otherwise merit. Whether or not it reflects the approach of other counties, the suppression of useful information seems to be a retrograde step that could lead to issues of local or county importance being examined unnecessarily in respect of each and every relevant proposal.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.115 Sites of Local Nature Conservation or Geological Interest

1388/3617 Environment Agency

1. The following text should be included: "The culverting of watercourses can have an adverse effect on environmental features and wildlife habitat. The Borough Council, in consultation with the Environment Agency, will protect existing watercourses and will only permit culverting where there is no reasonably practical alternative".

Council's Response:

2. The Council does not consider that it would be helpful to add a reference to culverting within the reasoned justification for this policy. The Environment Agency has its own powers in this regard and it is not for the Local Plan to control this issue.

Inspector's Conclusions

1. Irrespective of the respective powers, paragraph 3.115 is concerned with SINCs not watercourses and the inclusion of the EA's suggested wording, whilst no doubt true, would confuse this section.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

3.116 Sites of Local Nature Conservation or Geological Interest

599/2710 Nottinghamshire County Council

1. The paragraph should refer to Structure Plan Policy 3/7 rather than 3/6 and 3/8.

Council's Response:

2. The policy reference has been corrected in the Revised Deposit Draft (revision R91).

Proposed Inquiry Change:

3. Following further consideration the Council wishes to recommend a change to the wording of policy E17. The revision ensures the policy is clear as it will no longer imply that damaging development adjoining SINCs will be acceptable.

Inquiry Change

IC20 4. **The Council has recommended that the second appearance of the word 'on' should be deleted from the fourth line of policy E17.**

Inspector's Conclusions

1. R91 corrected the errors identified by the NCC. IC20 helps to clarify the Policy and should be supported

Recommendation

2. I recommend that Policy E17 of the RDDP be modified as set out in IC20

E17 Sites of Local Nature Conservation or Geological Interest

1429/3760 British Wind Energy Association

1. Locally designated sites should not be afforded the same level of protection as nationally or internationally designated sites. Therefore the phrase "damage or devalue" should be replaced by "irreparably damage or devalue".

Council's Response:

2. Policy E16 and its reasoned justification have been revised so as to make clear that a higher level of protection applies to SSSIs than to other sites (revisions R87-R89). The addition of the word "irreparable" would reduce the clarity of the policy and would be misleading as the Council wishes to avoid damage or devaluation whether or not it is "reparable".

598/2647 CPRE

3. The paragraph should refer to Regionally Important Geological Sites (RIGS), which should also be listed in Appendix 8.

Council's Response:

4. All sites, which are considered by the Nottinghamshire Biological and Geological Records Centre to be of geological importance, are included in the SINC system. In the Council's opinion there is therefore no need to refer to them separately.

1383/3521 English Nature

5. These paragraphs should be "amended to reflect the use of the term SINC". Regionally Important Geological Sites (RIGS) should be part of the SINC system. The text should point out that suggested policies E16(A) and E18, recommended elsewhere by English Nature, would also apply.

Council's Response:

6. The Council acknowledges that the use of various slightly different terms has the potential to cause some confusion and the consistent use of the term "Sites of Importance for Nature Conservation" will therefore add to the clarity of the Plan.

Inquiry Change

IC18 7. **The Council has recommended that the term "Sites of Importance for Nature Conservation" should be used consistently in the title, reasoned justification and policy, in place of the terms 'Sites of Local Nature Conservation or Geological Interest", "Sites of local ecological or geological significance", "nature conservation sites" and "sites of local ecological or geological interest".**

8. The SINC system is administered by the Nottinghamshire Biological and Geological Records Centre rather than the Borough Council. However all sites considered by the Centre to be of geological importance are included in the SINC system.

9. In accordance with the advice in the Planning Officers' Society "Better Local Plans" publication (p.18), the Council does not favour cross-referencing between policies because it is important that the Plan is read as a whole in all cases, whereas cross-referencing can give the impression that this should only happen in certain specified cases.

1383/3521 English Nature

10. The paragraph should state that Sellers Wood is a Local Nature Reserve.

Council's Response:

11. The Council acknowledges that Sellers Wood is a Local Nature Reserve and as such proposes a change to paragraph 3.113.

Inquiry Change

12. **The Council has recommended that a new sentence is inserted after the first sentence of paragraph 3.113 to read "Sellers Wood is also a Local Nature Reserve and is managed by Nottinghamshire Wildlife Trust on behalf of Nottingham City Council".**

IC103

599/2709 Nottinghamshire County Council

13. The text should list ancient woodlands, heathland register sites and Nottinghamshire Wildlife Trust Reserves.

Council's Response:

14. All sites considered by the Nottinghamshire Biological and Geological Records Centre to be of importance are included in the SINC system and listed in Appendix 8. Subdivision of the SINC designation would not, in the Council's opinion, be helpful. In any case it would not be appropriate for substantial lists to appear in the reasoned justification.

599/2709 Nottinghamshire County Council ("support")

15. The section of the policy relating to the creation of wildlife habitat would be best expressed as a separate policy, as it gives the impression it only applies where a designated site is affected as opposed to encouraging wildlife creation in all appropriate development.

Council's Response:

16. Both parts of the policy relate to either existing or proposed sites of local nature conservation or geological interest and the Council therefore considers that they should form parts of a single policy.

599/3546 Nottinghamshire County Council

17. The location of SINCs should be identified on the proposals map in accordance with PPG9.

Council's Response:

18. Following further consideration the Council proposes that all SINCs should be shown on the proposals map. This approach accords with PPG9 and with the Plan's approach to other kinds of designation. The additional wording in paragraph 3.114 will complement this approach.

Inquiry Change

IC17

19. **The Council has recommended that all SINCs should be identified on the proposals map and that the end of the second sentence of paragraph 3.114 is amended to read, 'and these are identified on the Proposals Map and listed in Appendix 8'.**

1486/4053 RJB Mining (UK) Ltd

20. The policy should be amended to reflect the fact that the impact of the development must be "unacceptable" before consideration should be given to refusal of planning permission.

Council's Response:

21. The addition of the word "unacceptable" would reduce the clarity of the policy, as it would raise the question of what constitutes an "unacceptable" impact. It would also be tautological to state that permission will be refused for unacceptable developments. However criteria against which developments will be judged have been added by revision R92.

1388/3616 Environment Agency

22. The policy should be enlarged to refer to the retention and enhancement of wildlife corridors. Rivers and their corridors are particularly important in fulfilling this function.

Council's Response:

23. PPG9 (paragraph 18) states that authorities should only apply local designations to sites of substantive nature conservation value, and take care to avoid unnecessary constraints on development. It would therefore be inappropriate to provide special protection for sites, which do not meet the criteria for SINC status. The SINC system provides a clear and consistent basis for protection and does so on a countywide basis. Many of the designated sites provide connectivity for wildlife along rivers or other corridors.

111/118 Lafarge Aggregates

24. The policy should either be deleted or be heavily revised to accord with guidance given in PPG9 (para 18).

Council's Response:

25. The objectors do not state why they consider that the policy conflicts with PPG9, which states that authorities should only apply local designations to sites of substantive nature conservation value. All SINCs are, in the Council's opinion and subject to the current review, of substantive nature conservation value. The policy was amended at the Revised Deposit Draft stage to add criteria, as recommended by PPG9, and policy E16 has been revised so as to emphasise the greater protection to be given to SSSIs.

E17 R92 Sites of Local Nature Conservation or Geological Interest - Clarification of the Sites to which the policy relates and addition of a clause regarding 'special reasons'.

598/4421 CPRE

26. The phrase "nature reserves" should be replaced by "nature conservation sites".

Council's Response:

27. The Council does not consider that the proposed phrase would add to the clarity of the policy. It is now proposed to use the term "Sites of Importance for Nature Conservation" consistently in the title, reason justification and policy, in place of the various terms used at present or proposed by objectors, in order to avoid any ambiguity. See the Inquiry change (IC18) proposed in response to objection 1383/3521 (paragraph 16).

1383/5300 English Nature

28. With regard to the original Deposit Draft policy, English Nature proposed a rewording of the policy. With regard to the revised policy in the Revised Deposit Draft, English Nature considers that where development is permitted, there should be a requirement to ensure that there is no net loss of nature conservation resource through mitigation. Where this is not possible compensation should be required.

29. All SINCs should be identified on the proposals map.

Council's Response:

30. All SINCs are now to be shown on the proposals map (IC17, paragraph 28).

31. The revisions to the policy made by revision R92 closely reflect the recommendations in English Nature's objections to the original policy, which did not refer to mitigation or compensation. In their representations on policy E16, which relates to SSSIs (representations 1383/3529 and 1383/5296-5298), English Nature has proposed that mitigation and compensation should be referred to in the reasoned justification rather than in the policy itself. In the Council's opinion it would therefore be appropriate to deal with the issue in the same way in respect of sites, which do not have SSSI status. It is therefore proposed to add relevant text to the reasoned justification. The proposed text gives greater emphasis to protecting the site's features and where appropriate compensating for any loss. The change also helps to give a consistent approach with policies E17 and EXX.

Inquiry Change

IC19

32. **The Council has recommended that the following two sentences should be added at the end of paragraph 3.114: "Where the reasons for development outweigh the local value of the site, the applicant shall minimise harm to the site's features. Compensation for the loss of the site's features of interest will be required".**

601/2673, 4626 Nottinghamshire Wildlife Trust

33. The Trust supported the original policy but considers that the revision weakens it. The following sentence should therefore be added to the end of the first paragraph:

34. "Where such development leads to adverse effects on these sites, the Council will require that compensation be provided such that there is no net loss to nature conservation interests".

Council's Response:

35. The revision has been made in order to comply with PPG9 (paragraph 25), which states that plans should indicate criteria against which developments will be judged, and for consistency with policy E16. The revised wording for policy E16, concerning SSSIs, has the support of English Nature and the Trust and does not refer to compensation. This matter is instead dealt with in the reasoned justification, with the support of the Trust and (subject to rewording) of English Nature. As discussed in the Council's response to English Nature's similar objection (above), it would be appropriate to deal with this issue in the same way in respect of sites which do not have SSSI status. It is therefore proposed to add to paragraph 3.114 the text referred to in the Inquiry change (IC18) in para 16 above.

Inspector's Conclusions

1. I agree that sites of local nature conservation value should not be accorded the same significance as national designations. However, introduction of the term "irreparably" is not very helpful since it is one of the aspects of damage. Depending upon the circumstances some temporary impacts may be allowable but others may not.

2. IC18 usefully clarifies and standardises the terminology to avoid any unnecessary confusion. It accurately describes the subject of this section and should encompass the areas of concern to the CPRE, if not all those of the NCC. SINCs should include all RIGS, which need no separate reference or category. IC18 should therefor be supported. IC20 seeks to correct a minor grammatical point in the first sentence of Policy E17 and should be supported.

3. Cross-referencing of policies should normally be avoided. The introduction to the Plan should make it clear that all policies of the Plan should be read together, as proposed in IC118. A number of different policies may apply to different proposals and it would be difficult if not impossible to cross-reference all these in advance. The danger in cross-referencing some but not other policies is that it can create misunderstandings and confusion.

4. IC103 correct the position with regard to the Sellars Wood LNR and should be supported.

5. As with RIGS, I see no value in subdividing or confusing the status of SINCs by listing ancient woodlands, heathland sites and NWT reserves either in the text or an appendix. The purpose of the LP is to put forward land use policies, not to act as a gazetteer of local nature conservation resources; other publications are better fitted to this role.

6. The second part of the Policy refers to the improvement of existing sites as well as to the creation of new sites. As such it is conveniently included in Policy E17. Careful reading should avoid any misunderstanding in respect of new sites.

7. IC17 complies with the advice of PPG12 and meets the objections of the NCC and EN. It should be supported.

8. Again, the term "unacceptable" describes the outcome of the decision rather than the criteria on which it is based and is unhelpful and unnecessary.

9. As the BBC has not identified any wildlife corridors, except in largely diagrammatic terms in CD61, it would be inappropriate to refer to their retention and enhancement.

10. It is unclear how Lafarge consider Policy E17 should be revised. The BBC and the NBGRC consider all SINCs to be of substantive nature conservation value and this can only be judged on a site by site basis not by deleting or heavily revising the Policy, whatever the latter may mean. As Policy E16 refers to the national policy towards SSSIs and E17 does not; the latter does not seek the same weight as the former. In my view, it is, subject to the ICs that I endorse, appropriately worded.

11. Local Nature Reserves are distinct from other sites of nature conservation importance and the CPRE's suggestion would not clarify matters. In any case, IC18 usefully substitutes the term SINC for the plethora of terms relating to nature conservation sites.

12. IC19 partially meets EN's objections. However, as with my conclusions on SSSIs, IC19 is a statement of Policy, which should be added to Policy E17 rather than to the end of paragraph 3.114, although some suitable explanation could be included there. PPG12 makes clear the role of Policies in the Plan in determining planning applications, including the imposition of conditions. In order to achieve consistency with my recommendations on Policy E18 the phrase the phrase “secured by planning conditions or negotiated planning obligations” should be added to the end.

13. This may go some way to meeting the NWT's objection, although their suggestion of no net loss is too absolute.

14. The CPRE’s original request for a further policy related to Biodiversity Action Plans is dealt with by R95 and R96.

Recommendation

15. I recommend that the RDDP be modified as set out in IC17, IC18, IC103, IC20 as above and IC19 subject to its inclusion in Policy E17 with some suitable explanation in paragraph 3.114 and with the phrase “secured by planning conditions or negotiated planning obligations” added to the end.

E18 SPECIES PROTECTION

Objections

3.117 Species Protection

601	2678	Mr S Rufus	Nottinghamshire Wildlife Trust

3.118 Species Protection

601	2747		Mr S Rufus	Nottinghamshire Wildlife Trust

3.118 R93 Species Protection – Rephrasing of reference to habitat creation

598	4422	R93	Mr I Brown	CPRE - Broxtowe Group
1383	5301	R93	Mr S Clifton	English Nature East Midlands Team

E18 Species Protection

598	2645	Mr I Brown	CPRE - Broxtowe Group
1383	3530	Mr S Clifton	English Nature East Midlands Team
1486	4055	Mr J Gough	RJB Mining (UK) Ltd
601	2750	Mr S Rufus	Nottinghamshire Wildlife Trust

E18 R94 Species Protection – Addition of reference to 'overriding need'

1383	5302	R94	Mr S Clifton	English Nature East Midlands Team

Summary of Objection Issues

Proposed Inquiry Change:

1. Following further consideration the Council wish to suggest a change to the title of this section.

Inquiry Change

IC100

2. **The Council has recommended that the title of this section is amended to read 'Sites supporting species protected by law".**

3.117 Species Protection

601/2678 Nottinghamshire Wildlife Trust

1. The second sentence should be deleted, as the bulk of the population of several protected species occurs outside the SSSIs, SINCs and MLAs.

   The final sentence should be replaced with:

   "Surveys to determine whether protected species would be affected by development proposals will be routinely required in certain circumstances, where proposals would affect features with the potential to be important for protected species (e.g.

   buildings or mature trees - roosting bats and nesting barn owls;

   rough grassland - foraging barn owls;

   streams, ditches and water bodies, and their adjacent terrestrial habitat - water voles, great crested newts, white-clawed crayfish;

   woodland, scrub and other dense cover, and associated grassland - badgers)"

   Alternatively, the text within brackets could be replaced with a cross-reference to a source of more detailed information on protected species considerations.

Council's Response:

2. The statement in the second sentence is not inaccurate and does not reduce the effect of the policy outside protected areas. The Council does not therefore agree that the sentence should be

deleted. However, following further consideration the Council wishes to suggest the following changes which give additional information and aid understanding, by clarifying the circumstances in which surveys will be required.

Inquiry Change

IC21

3. **The Council has recommended that the final sentence of paragraph 3.117 should be replaced with the following: "Surveys to determine whether protected species would be affected by development will be required in circumstances where the proposals would affect features which could be important for protected species".**

Inquiry Change

IC101

4. **The Council has recommended that an additional sentence is inserted at the end of paragraph 3.117 (directly following the above proposed text) to read; "Where in the light of these surveys development is found to be acceptable, applicants will be advised that in order to meet the requirements of relevant wildlife and countryside legislation, survey work should be undertaken again prior to implementation".**

Inspector's Conclusions

1. IC100 usefully clarifies the title of this section. I found the 2nd sentence of paragraph 3.117 to be quite unnecessary and like the NWT, potentially misleading. It may not encourage surveys outside protected areas and should be deleted. IC21 and IC101 strengthen paragraph 3.117 in its advice relating to surveys and partially meets the NWT's concern. However, NWT's examples are too detailed for the text or an appendix of the Plan and are better suited to SPG, which can be prepared separately. I know of no source of detailed information at present to which cross-reference can be made. In any case, the role of the LP is to set out land use policies and their justification and not to act as a detailed guide to local resources.

Recommendation

2. I recommend that the RDDP be modified as set out in IC21, IC100 and IC101 and by the deletion of the 2nd sentence of para 3.117.

3.118 Species Protection

601/2747 Nottinghamshire Wildlife Trust

1. The Trust proposes a revised wording for the whole paragraph to read: "Development affecting a protected species will only be permitted in the exceptional circumstance where overriding need for the development can be demonstrated, and the developer also provides mitigation proposals which provide for the maintenance or enhancement of the status of the species in the locality. Where these situations apply, the Council will require the mitigation work, including monitoring and long-term management, to be subject to a legal agreement with the developer".

Council's Response:

2. The paragraph and policy have been changed by revisions R93 and R94 respectively, both of which have the support of the Trust (representations 601/4554 and 601/4555). The Council believes that these revisions have met the concerns of the Trust and that no further changes to the paragraph are therefore required.

1381/5301 English Nature

3. The revised final sentence should finish with the words "… protection of the relevant species", because creating a similar habitat elsewhere locally would not necessarily be appropriate to secure the protection of the relevant species and the term "appropriate" is not defined and is ambiguous.

Council's Response:

4. The revised wording for policy E18 that is proposed by English Nature (see below, objection 1383/3530) includes a reference to the provision of alternative habitats where appropriate. In the Council's opinion it is therefore sensible for the reasoned justification to include a similar reference. The revision to the paragraph has the support of the Nottinghamshire Wildlife Trust (representation 601/5301).

Inspector's Conclusions

1. R93 goes some way to meeting the NWT's objection to the FDDP and is more concisely expressed than their suggestion.

2. The CPRE's suggested amendments to para 3.118 are hardly related to R93. It is unnecessary to include the terms "directly or indirectly" as both are covered by the term used. Examples may be misleading and are normally inappropriate in the reasoned justification. Similarly, it is unnecessary to elaborate by including the terms "protected by law"; particularly as para 3.117 makes reference to this. The term "suitable" is as good as "appropriate" and I see no point in change for its own sake. The term "species" requires no subdivision. The protection of the species covers all aspects. It includes individual members and covers the minimising of disturbance. It is unnecessary to mention the involvement of outside agencies except as covered more precisely in IC22. I thus prefer the wording of the RDDP. It is more concise, which is to be welcomed in such a lengthy document. The CPRE's suggested amendments provide no improvement.

Recommendation

3. I recommend that no modification be made to the RDDP in respect of these objections.

3.117 – 3.118 Species Protection

1383/3530 English Nature

1. The supporting text should be amended to reflect the need to obtain a licence from English Nature where appropriate and to state that information on protected species is available from the same source.

Council's Response:

Inquiry Change

IC22

2. **The Council accepts that it would be useful to refer to the need to obtain a licence from English Nature. Therefore the Council suggests an inquiry change which will give additional information concerning the need for licences which is likely to be relevant to people contemplating a development to which policy E18 applies.**

3. **The Council has recommended that the following extra paragraph should be added after paragraph 3.118: "In many instances developers will be required to obtain a licence from English Nature in order to carry out operations affecting protected species, in addition to securing planning permission. Developers are therefore advised to contact English Nature at an early stage in their development proposals. Information on protected species is also available from English Nature".**

E18 Species Protection

Proposed Inquiry Change:

1. Following further consideration the Council wish to suggest a change to Policy E18 that should improve clarity.

IC102

2. **The Council has recommended that the phrase 'to be liable to' be deleted from Policy E18.**

1383/3530, 5302 English Nature

3. The current wording is too broad in scope to be effective as, for instance, all wild birds are protected to some extent by legislation. An alternative wording is therefore proposed for the whole policy. If the current wording is instead retained, the word "wild" should be inserted before the words "animal" and "plant" to be consistent with the relevant legislation.

Council's Response:

4. The Council considers that the alternative wording would be excessively detailed and inappropriately phrased, as it would make the plan dependant on other documents (the Act and Regulations). However the Council agree that a change to insert the word 'wild' would ensure consistency with the relevant legislation.

Inquiry Change

IC23

5. **The Council has recommended that the word "wild" should be inserted before "animal" and "plant".**

598/2645, 4422 CPRE

6. The policy would be strengthened if the wording was amended to read "Planning permission will not be granted for development that would be liable to detrimentally affect, *directly or indirectly,* a species of animal or plant protected by law, or its habitat. *Where development is permitted the developer will be required to take appropriate steps to secure the protection of such animals or plants. These steps will include*:

1. *Facilitate the survival of individual members of the species.*
2. *Keep disturbance to a minimum.*
3. *Provide adequate alternative habitats to sustain at least the current levels of population".*

The revisions made by the Council do not adequately address the CPRE's concerns.

Council's Response:

7. The Council considers that the proposed wording would be excessively detailed and that the current wording deals with the issues raised in an appropriate manner, subject to the inquiry change proposed in response to English Nature's objection at paragraph 12.

599/2708 Nottinghamshire County Council

8. The policy should be re-worded to reflect more closely the intent of paragraph 3.118. Policy should read "Planning permission will not be granted for development that would be liable to detrimentally affect a species of animal or plant protected by law unless it can be demonstrated that there is an overriding need for the development. In these cases provision must be made to secure the protection of the species or habitat in the locality".

Council's Response:

9. Revision R94 was made in order to provide the wording requested by the County. Further changes are now proposed - refer to IC22, IC102 and IC23 - however, these changes incorporate the wording requested by the County and the Council believes that their objection has been met.

1486/4055 RJB Mining (UK) Ltd

10. The words "detrimentally affect" should be replaced with (cause) "unacceptable damage" (to).

Council's Response:

11. The proposed wording would reduce the clarity of the policy, as it would raise the question of what sort of damage is "unacceptable".

601/2750, 4555 Nottinghamshire Wildlife Trust

12. The matters raised by the Trust in relation to the supporting text (objections 601/2678 and 601/2747, see above) "may merit inclusion in the wording of the policy". They "would welcome dialogue with the Council, and other concerned bodies such as English Nature, to establish the most appropriate wording". The Trust supports R94.

Council's Response:

13. The paragraph and policy have been revised with the support of the Trust and further changes are now proposed to the reasoned justification and to the policy, in response to objections by the Trust and English Nature (see the Council's response to objections 601/2678, 1383/ 3530, and 1383/5302 above). Following recent dialogue with the Trust, the Council hopes that the resultant text and policy will be to the reasonable satisfaction of all concerned bodies.

Inspector's Conclusions

1. IC22 usefully adds advice relating to the need for a licence from EN and should be endorsed. IC102 deletes the superfluous terms "to be liable to" and is an improvement. The suggested rewording of EN contains unnecessary detail. IC23, which introduces the term "wild", is more appropriate and is to be preferred.

2. It is unnecessary to include the terms "direct and indirect" since both are already covered by the terms of the Policy. The rest of the CPRE's suggested wording is too detailed; all these aspects would come under the terms of the Policy.

3. The NCC's objection to the FDDP was met by R94.

4. The term "unacceptable damage" describes the outcome of a decision not the criteria for making it.

Recommendation

5. I recommend that the RDDP be modified as set out in IC22, IC23 and IC102.

EXX LOCAL BIODIVERSITY

Objections

3.XX R95			***Text on local diversity - Addition of reasoned justification regarding local biodiversity***	
598	4423	R95	Mr I Brown	CPRE - Broxtowe Group
1213	5161	R95	Ms F Forgham	Government Office for the East Midlands
599	4466	R95	Mr G Foster	Nottinghamshire County Council
EXX R96			***Policy on local diversity - Addition of policy regarding local biodiversity***	
1383	5304	R96	Mr S Clifton	English Nature East Midlands Team
1213	5162	R96	Ms F Forgham	Government Office for the East Midlands

Summary of Objection Issues

3.XX R95 Text of local biodiversity - Addition of reasoned justification regarding local biodiversity

598/4423 CPRE

1. This section should be included in the Strategy chapter.

Council's Response:

2. The paragraph and the policy to which it relates are more detailed than the policies contained in the Strategy chapter. The subject matter sits better with other policies in the Environment chapter, particularly SSSIs, SINCs and species protection (policies E16-E18), than it would with the broader subjects covered in the Strategy chapter. This is in any event an editorial matter.

1213/5161 GOEM

3. The reasoned justification refers to Appendix 8 as the source of further details, but none are included.

Council's Response:

4. These details were omitted in error, and therefore the Council wishes to suggest an amendment to paragraph 3.XX. This amendment provides additional information and overcomes GOEM's objection.

Inquiry Change

IC24

5. **The Council has recommended that the list of habitats of conservation concern in Nottinghamshire, which forms Appendix B of the Nottinghamshire Biodiversity Action Plan, should be included within Appendix 8 of the Local Plan, and that the second sentence of paragraph 3.XX should be amended to read, "Further details including a list of habitats of conservation concern in Nottinghamshire is provided in Appendix 8".**

6 The list of habitats is attached for information.

599/4466 Nottinghamshire County Council ("support")

7. The reasoned justification refers to Appendix 8 as the source of further details, but none are included.

8. The appendix should also include reference to the management of Biodiversity Action Plan habitats.

Council's Response:

9. These details were omitted in error and paragraph 5 of this proof suggests an inquiry change that overcomes this objection. However, the Council considers that the management of habitats is beyond the reasonable scope of the Plan.

EXX R96 Policy local biodiversity - addition of policy regarding local biodiversity

1383/5304 English Nature

10. The policy should also refer to species since some are not legally protected but are very vulnerable. "The Local Plan should also indicate what weight would be given to biodiversity as a planning consideration since the Nottinghamshire Biodiversity Action Plan includes both national and local priority species and habitats".

Council's Response:

11. The protection of habitats will result in the protection of species and there is limited benefit in trying to protect species without protecting the habitats on which they depend. In addition, Appendix A of the Biodiversity Action Plan refers to several hundred species, which are of conservation concern in Nottinghamshire. In the Council's opinion it would represent an excessive level of detail and an excessive degree of control, contrary to paragraph 8 of PPG9, for the Local Plan to seek to protect all of these species in isolation from their habitats. The Council notes that the policy has the support of the Nottinghamshire Wildlife Trust and the CPRE (representations 601/4557 and 598/4424).

12. The policy will inform the planning process and be a planning consideration to be taken into account. It is impossible to be specific about weight as this will vary with circumstances. The Council hopes that its attitude to biodiversity is made clear by this policy and by policies E16-E18.

1213/5162 GOEM

13. Reference to the Nottinghamshire Local Biodiversity Action Plan (NLBAP) should be removed from the policy, as the policy should not rely on a document, which does not form part of the plan. It should be explained how any "compensatory measures" would be achieved, e.g. through conditions or negotiated agreements, and what these might be.

Council's Response:

14. The Council recognises that the policy should not rely on a separate document and following further consideration the Council wishes to suggest an amendment to the policy to overcome this objection.

Inquiry Change

15. **The Council has recommended that the words "the Nottinghamshire Local Biodiversity Plan" be deleted and replaced with the words "Appendix 8".**

IC107

16. The matter of compensatory measures is dealt with in the final sentence of the first paragraph of the reasoned justification. With regard to SSSIs and species protection (policies E16 and E18), the matter has also been dealt with in the reasoned justifications, without objection from GOEM, and in the Council's opinion it would be consistent to continue to deal with the matter in the same way with regard to local biodiversity (policy EXX).

LIST OF HABITATS OF CONSERVATION CONCERN IN NOTTINGHAMSHIRE

- Wet broadleaved woodland
- Oak-birch woodland
- Mixed ash dominated woodland
- Planted coniferous woodland
- Lowland wood pasture and parkland
- Lowland heathland
- Ancient and/or species rich hedgerows
- Ditches
- Cereal field margins
- Arable fields
- Improved grassland
- Unimproved neutral grassland
- Lowland dry acid grassland
- Lowland calcareous grassland
- Reedbed
- Fen
- Marsh
- Eutrophic standing waters
- Mesotrophic lakes
- Rivers and streams
- Canals
- Saline lagoons

- Lowland wet grassland
- Urban land
- Post-industrial land

Inspector's Conclusions

1. I see no reason to include this topic in Chapter 2 rather than Chapter 3 where it sits alongside policies relating to other nature conservation matters. It gains no added importance from inclusion in one Chapter rather than another.

2. IC24 corrects an omission identified by GOEM and NCC. It should be endorsed.

3. A reference to the management of Biodiversity Action Plan habitats is inappropriate in this LP, whose role is to set out land use planning policies rather than a guide to other environmental activities. Other publications are more appropriate for that task.

4. EN does not request a list of the several hundred species referred to in the BAP. Nor do they object to protecting habitats as well as species. They simply require inclusion of the term "species" after the term "habitats" in the Policy. Whilst protection of habitats may often protect species there may be cases where this is not the case and EN's suggestion is a positive improvement that I endorse.

5. However, I agree that it is inappropriate, if not impossible for the Plan to say what weight would be attached to biodiversity as a planning consideration. It will depend upon the circumstances of individual proposals and sites. However, in accordance with the advice of PPG9 the LPA should accord more weight to habitats and species of national significance than those of more local value.

6. IC107 should meet the GOEM's legitimate point. The addition of the terms "secured by planning conditions or negotiated agreements" to the last sentence of the Policy would meet their second point as the reference in paragraph 3.XX (R95) does not have the same force and does not specifically relate to compensatory measures. Policies E16 and E17, unlike EXX did not refer to compensatory measures; a surprising omission in view of their perhaps greater prominence. I recommend above additional wording to resolve this inconsistency.

7. I have no details of Proposed Modification No.74 to the Nottinghamshire Waste Local Plan and it is inappropriate for the RDDP to rest on another document.

Recommendation

8. I recommend that the RDDP be modified as set out in IC24 and IC107 and by the addition of the term "and species" after "habitats" in the first sentence of Policy EXX and the terms "secured by planning conditions or negotiated agreements" to the last sentence of this Policy.

E19 - AGRICULTURAL LAND QUALITY

Objections

3.121 R97		***Agricultural Land Quality – Rephrasing of reference to severance of holdings***		
598	4425	R97	Mr I Brown	CPRE – Broxtowe Group
E19		***Agricultural Land Quality***		
1178	2751			Metropolitian & District Developments Ltd. Shoosmiths Solicitors
1006	2108			Nuthall Parish Council Browne Jacobson Planning Unit
1155	2488			Greasley Parish Council Andrew Thomas Planning
1439	3789		Mr P Geldart	Country Landowners Association
1486	4056		Mr J Gough	RJB Mining (UK) Ltd Fuller Peiser
111	116		Mr G Staddon	Lafarge Aggregates Ltd
E19c R98		***Agricultural Land Quality – Deletion of clause regarding the location of the land concerned***		
1155	5086	R98		Greasley Parish Council Andrew Thomas Planning
598	4426	R98	Mr I Brown	CPRE - Broxtowe Group

Summary of Objection Issues

3.121 R97 Agricultural Land Quality – Rephrasing of reference to severance of holdings

598/4425: CPRE

1. Object to insertion of word “preferable” as it weakens the point of this paragraph.

Council’s Response:

2. Whilst this Council considers this is an important issue that should be assessed, the insertion of the word “preferable” is in recognition of the lack of strong support for this stance in national policy guidance.

Inspector’s Conclusions

1. Farm holdings, which reflect ownership or tenancy, may make little sense in defining the location and extent of planning proposals. Other factors such as agricultural land quality, local topography, landscape, settlement form etc may be more important. Thus some fragmentation of tenure may be unavoidable and even preferred on sound land use planning grounds. Also the issue of severance may not be so detrimental as the CPRE consider since farmland can and is reorganised into different units, often without any stimulus from planning proposals. It is perhaps more important to avoid creating small parcels of isolated agricultural land and also to recognise the limited value that such previously created parcels now possess.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

E19 Agricultural Land Quality

1178/2751: Metropolitan and District Developments

1. Main thrust supported but criteria objected to. MDD state that the policy does not accord with Structure Plan Policy 3/13 as this gives no exception to the general presumption against loss of best and most versatile agricultural land except where there is no reasonable alternative. Policy E19 is entirely different in respect of criterion (a) and particularly criterion (c). Criterion (c) is considered to be a strategic planning consideration. Criterion (a) is considered inconsistent with Structure Plan Policy in that it suggests that the question is one of the need for development.

   MDD also state that E19 does not meet objective e/t which is to protect the countryside from inappropriate development.

Council's Response:

2. Criterion (c) has been deleted so this part of the objection has been overcome (R98).

3. Criterion (a) relates directly to PPG7 paragraph 2.18 which states "land in grades 1, 2 and 3a should only be developed exceptionally, if there is an overriding need for the development ... ". The Council does not consider this criterion to be inconsistent with the Structure Plan policy 3/13, and remains of the view that Policy E19 accords with Structure Plan policy 3/13.

4. With regard to Council's objectives, these are intended to give a general indication of what the individual policies are working to achieve. The Council considers that objective e/t does this; all best and most versatile agricultural land is within the countryside and the loss of this land without proper justification (criterion (a) and (b)) is considered inappropriate.

1006/2108: Nuthall Parish Council

5. The Parish Council object in respect of the departure from current EV21 policy and also because it widens policy 3/13 of the Nottinghamshire Structure Plan.

   The Parish Council consider E19 should restate the wording of 3/13 of the Structure Plan and there should be no other qualifying criteria.

Council's Response:

6. Criterion (c) has been deleted from the Revised Deposit Draft (R98). The wording of the new policy, E19, follows closely the advice given in PPG7. PPG7 post-dates the 1994 Broxtowe Local Plan and Policy EV21. PPG7 also post-dates the Structure Plan Policy. However, the Council considers that with the deletion of criterion (c) the revised policy accords with the Structure Plan. Furthermore, the Council does not consider that the policy has been weakened – indeed the criteria are more specific and therefore easier to defend.

1155/2488: Greasley Parish Council

7. Support sentiment but suggest wording should be altered to bring it in line with Policy 3.13 of the Structure Plan and PPG advice.

   Suggest delete (a), (b) and (c) and add "unless there is no other suitable alternative site (or site which could be made suitable) for the development proposed which is of lower grade agricultural quality".

Council's Response:

8. Criterion (c) has been deleted from the Revised Deposit Draft (R98). The wording of the new policy, E19, follows closely the advice given in PPG7. PPG7 post-dates the 1994 Broxtowe Local Plan and the Structure Plan. The Council considers the wording of policy E19 accords with the guidance in PPG7 and gives a high degree of protection to the "best and most versatile agricultural land".

1439/3789: Country Landowners Association

9. Welcomes the intention to protect best grades of agricultural land but feels criteria are so loosely constructed that the protection intended might not be achieved. Suggest (a) and (b) reworded and (c) removed.

Council's Response:

10. Criterion (c) has been deleted from the Revised Deposit Draft (R98). The Council considers that the wording of (a) and (b) is satisfactory and in accordance with PPG7 paragraph 2.18.

1486/4056 RJB Minning (UK) ltd

11. Policy has effect of prohibiting development irrespective of the amount of best and most versatile agricultural land, which is lost.

Council's Response:

12. The wording of policy E19 is in accordance with PPG7. The policy does not prohibit development, but rather provides criteria against which proposals should be assessed. If a proposal is contrary to policy E19 it will be for the applicant to suggest if there are any material considerations that warrant a departure from policy.

111/116: Lafarge Redlands Aggregates

13. LRA consider that the policy should be revised to acknowledge that certain development involves only temporary use of land and is able to restore land to its prior quality.

14. Suggest the word "permanent" should be added before "loss".

Council's Response:

15. PPG7 does not distinguish 'temporary' development when discussing the approach to be taken to protecting the best agricultural land, and there are no special local circumstances that warrant departing from the approach in PPG7.

16. Development that does not result in the "loss of best and most versatile agricultural land" or, temporary buildings and uses which are permitted by the General Permitted Development Order 1995, will not be assessed under this policy.

17. For time limited permissions the ability to return an area of agricultural land to its original quality after development is dependent on many factors, including the specific type of development that has taken place, the commitment of the applicant, and the specific qualities of the land. In view of this the Council would wish all development that results in the loss of best and most versatile agricultural land to be assessed in relation to Policy E19 and criteria (a) and (b).

18. Applications for mineral workings are determined by Nottinghamshire County Council who, in deciding applications, will have regard for both agricultural implications and environmental and economic aspects of the proposal. In responding to consultations Broxtowe Borough Council will also have regard to agricultural implications (Policy E19) together with other policies relating to environmental and economic aspects.

E19c – R98 Agricultural Land Quality – Deletion of clause regarding the location of the land concerned

Objectors Raising Similar Issues:

1155/5086: Greasley Parish Council

19. Object to removal of section (c).

598/4426: CPRE

20. Object to section (c) being taken out as it is in compliance with policy documents.

Council's Joint Response:

21. Criterion (c) was not in compliance with PPG7, which sets out how to assess proposals for the use of high-grade agricultural land. GOEM also advised the removal of section (c) on these grounds. It should be noted however that Policy K1, which states "The Council will assess development proposals in the context of the principles of sustainable development", would also apply when assessing proposals.

Inspector's Conclusions

1. R98 deleted criterion c) and met one of Metropolitan's, the CLA's and originally the GOEM's objections to the FDDP. The remainder of Policy E19 accords with PPG7 in that any loss of best and most versatile agricultural land (B&MV) would only be allowed if there is an overriding need for development and there is a lack of development opportunities on lower grade land or in already developed areas. This also accords with the less detailed SP Policy 3/13 which, contrary to Metropolitan's views, allows development of B&MV land where there is no reasonable alternative. Criterion a) does not stand on its own but has to be read in conjunction with criterion b) as Policy E19 clearly states.

2. SP Policy 3/13 is broader and vaguer than Policy E19, but it is no better for that. Metropolitan's additional clause to criterion b) adds little as the latter already covers most if not all eventualities.

3. I see little difference in practice between Policy E19 and Greasely PC's suggestion. They both cover the point regarding lower grade land. However, I prefer the former for its clearer wording and its reference to already developed areas. I

consider that it should achieve the protection intended. I find their objection to and then their apparent subsequent support for criterion c) confusing. However, this criterion is unconnected with agricultural land and is covered by other Plan policies, which have to be read as a whole. R98 should therefor be endorsed.

4. Whilst DEfRA may at times not raise objections to the loss of smaller areas of B&MV land, it would be inappropriate to include any thresholds within the Policy. If lower grade land is available it should be used instead. If use of B&MV land is inevitable it would be clearly preferable and in keeping with Policy E19 to take as little as possible, other considerations permitting, but this should go without saying.

5. If proposals such as mineral working can be shown to result in only a temporary loss of B&MV land this may provide the circumstances to allow development, other factors permitting. However, it would depend upon the time scales involved and the feasibility of the necessary standard of restoration. Inclusion of the term "permanent" could countenance loss for an unacceptably long period of time. MPGs may stress the importance of high quality restoration, but this does not imply that this is always achievable. It still leaves the MPA to assess each proposal on its merits in the local circumstances. However, the County Council, not the Borough Council, is responsible for control over mineral working and they have their own more specific policies covering such issues. Paragraphs 3.120 to 3.122 mention no forms of development on agricultural land and it would be inappropriate to single out one (mineral working) for special mention; especially in view of the Borough Council's range of responsibilities. There is nothing in objectives 1 and 2 of The White Paper, which suggests that local policies to protect B&MV land, wherever possible, are misplaced.

6. Policy E19 does not place a moratorium on development affecting B&MV land. Minerals may have to be worked where they occur. However, where they occur in areas of B&MV and in lower grade areas, it may be appropriate as PPG7 advises, to prefer the latter to the former areas, other factors permitting.

Recommendation

7. I recommend that no modification be made to the RDDP in respect of these objections.

E20 ANCIENT MONUMENTS & OTHER SITES OF ARCHAEOLOGICAL INTEREST

Objections

3.XX R102		***Other sites of archaeological interest***	
1468	5395	Miss A Plackett	English Heritage East Midlands Region
599	4481	Mr G Foster	Nottinghamshire County Council
1486	5401	Mr J Gough	RJB Mining (UK) Ltd
E20		***Ancient monuments and archaeological sites***	
1429	3761		British Wind Energy Association Brodies W.S.
599	2724	Mr G Foster	Nottinghamshire County Council
599	3547	Mr G Foster	Nottinghamshire County Council

111 115 Mr G Staddon Lafarge Aggregates Ltd

Summary of Objection Issues

3.XX R102 Other sites of archaeological interest - Addition of new policy regarding other sites of archaeological interest

1468/5395 - English Heritage East Midlands Region

1. The following rewording of the policy is suggested to reflect objection to R101 (1468/5394). Where proposals are submitted for development on sites identified as being of archaeological or historical significance, other than scheduled Ancient Monuments or other nationally important archaeological sites, the Council will a) require that an archaeological assessment and/or evaluation be submitted prior to determining the application; and b) if the development is acceptable, to impose conditions and/or negotiate a legal agreement to secure preservation in situ of the archaeological remains, or where this is not appropriate, provision for their excavation and recording.

599/4481 - Nottinghamshire County Council

2. Revisions meet concerns to a large extent, but the revisions should not preclude treatment of archaeological remains, which involve a mix of both excavation and in situ preservation. Clause b of the revised policy makes clear that preservation in situ of non-scheduled nationally important sites is feasible, but should provide positive support for doing this. Suggested wording: a) as written; b) refuse development which would detrimentally affect nationally important archaeological sites and their setting; c) where development is acceptable impose conditions to achieve partial preservation in situ and/or secure appropriate treatment for archaeological remains including their recording or excavation.

Council's Joint Response:

3. The Council consider the wording within the new paragraph to be acceptable in the pursuit to protect and preserve sites of historical or archaeological significance from development. The Council believes the policy is broadly in line with PPG16 and is designed to cover all eventualities sufficiently. Thus, the Council do not accept that it is necessary to alter the policy's wording as suggested.

1486/5401 - RJB Mining (UK) Ltd

4. Support R102 apart from the word 'importance' should replace 'significance' to accord with paragraph 21 of PPG16. The company support R104 and conditionally withdraw their previous objection to E20.

Council's Response:

5. The Council do not consider it necessary to change the word 'significance' in the new policy to the word 'importance'. Their meaning is somewhat identical and as a result will not affect the purpose or application of the policy or consequently the eventual outcome.

Inspector's Conclusions

1. The term "importance" is more precise than the word "significance" and, as RJB, observes, accords better with the terminology of PPG16 and of R101.

2. PPG16 para 8 advises that where nationally important remains, whether scheduled or not, are affected by proposals there should be a presumption in favour of their

physical preservation. Although this is not reflected in the subsequently approved SP, NCC's original suggested policy criteria a), b) and c) reflect government advice. Although R102 and English Heritage's suggested re-wording could embrace such concerns, the NCC original wording is more precise and is to be preferred, subject to the substitution of the terms “planning permission will not be granted for development” for the terms “refuse development” in b). This would also help to meet Lafarge's point below. Whilst the BBC argue its inapplicability to Broxtowe, NCC's Senior Archaeological Officer points to the continuing emergence of nationally important remains and cites the recent scheduling of two of Broxtowe's AMs and two other important recent discoveries. It is preferable to confine Policy EXX (R100) to AMs and to include criterion relating to other nationally important sites in Policy EXX (R102), as the NCC originally suggested. Reference to the Proposals Map reflects the advice of PPG12 and should be endorsed.

Recommendation

3. I recommend that the RDDP be modified by substituting the term "importance" for "significance" in the 5th line of R102 and by substituting the criteria b) and c) suggested by the NCC for criterion b) in R102 on their objection form (4481) dated 14/2/01 subject to substitution of the terms “planning permission will not be granted for development” for the terms “refuse development” in b).

E20 Ancient Monuments and Archaeological Sites

1429/3761 - British Wind Energy Association

1. The word ‘significantly’ should be inserted after the word ‘would’ on third line of the first paragraph of this policy.

Council’s Response:

2. Revisions R99-R104 have revised policy E20 by separating it into two policies, which deal separately with the issues relating to ‘Scheduled Ancient Monuments’ and other Sites of Archaeological Interest’. The first part of policy E20 has been duplicated to create the policy on Ancient Monuments. The Council do not accept the proposed word change, as the resulting policy would be weaker in its protection against guidance contained in PPG16 and Structure Plan policy 3/4.

599/3547 and 2724 - Nottinghamshire County Council

3. Scheduled ancient monuments are defined by a symbol on the proposals map but are not defined by an area and some are extensive. Consider showing the full extent of ancient monuments.

4. Redraft the policy. English Heritage’s ‘Development Plan policies for Archaeology’ 1992, states that policies should a) state the principle of preserving in situ sites of national importance and their setting (whether scheduled or not); b) provide the policy context for the predetermination and investigation of archaeological sites which may be affected by a development proposal; c) establish that it is reasonable for LPA’s to impose planning conditions requiring archaeological work to be undertaken on a site in order to mitigate the impact of development.

Council's Response:

5. The Council does not consider that there is an overriding need to alter the symbol for Scheduled Ancient Monuments on the proposals map. The symbol is sufficient in identifying the area in which a Monument is located; with additional information contained in Appendix 6 of the Written Statement. It is also not possible to accurately illustrate at the scale of the Proposals Map the extent of very small designations, for example the Anglo Saxon Cross at Stapleford.

6. The revisions R99-R104 contained in the Revised Deposit Draft amended policy E20 by separating it into two policies, one policy on Ancient Monuments and the other covering other sites of Archaeological interest. These policies reflect PPG16 and the guidance produced by English Heritage more closely.

111/115 - Lafarge Redland Aggregates

7. PPG16 refers to a general presumption in favour of physical preservation of nationally important archaeological remains when affected by development proposals. In the case of lesser important remains authorities should weigh their significant against the need for the proposed development. It does not say the development should be prevented. Revise in line with PPG16, paragraph 8.

Council's Response:

8. The Revised Deposit Draft, revisions R99-R104 amended policy E20 by separating it into two policies, one policy on 'Ancient Monuments' and the other covering 'Other Sites of Archaeological Interest'. The Council consider that these policies adequately reflect the guidance contained in PPG16 and Structure Plan Policy 3/4. With regard to the physical preservation of archaeological sites the new policy allows for this provision if after an archaeological evaluation such treatment is necessary. There is a presumption that Scheduled Ancient Monuments will be preserved. However, the Council do not have evidence to suggest that there are archaeological remains within the borough, which are not scheduled but are of national importance. Accordingly, the Council do not wish to include a policy within the plan, which is not applicable to Broxtowe.

Further Proposed Inquiry Change:

14. English Heritage, in its observations on another part of the Plan, has drawn attention to an inaccuracy relating to the reference in paragraph 3.XX (R99) to designation. The Council proposes the following inquiry change to correct this point and to accommodate the possibility of future designation of additional ancient monuments within the plan period.

Inquiry Change

IC25 **The Council has recommended that the sentence in paragraph 3.XX R99 is amended to read, 'Policy EXX applies to Scheduled Ancient Monuments in the borough. Existing Scheduled Ancient Monuments are listed in Appendix 6'.**

Inspector's Conclusions

1. The term "significantly" is unhelpful as it goes without saying that if the effect is insignificant there can be little objection. As I conclude elsewhere, the term "unacceptable" is also unnecessary and unhelpful.

2. It is impracticable to show the extent of some AMs on the PM because of the relative scale. It is preferable to retain the same depiction for all AMs. The symbol should alert readers to the existence of AMs in the vicinity and Appendix 6

provides a brief description. More detailed information can be obtained from the LPA as required. Perhaps of more concern is the lack of any identification of other important archaeological sites, which are the subject of Policy EXX (R102) on the PM. Implementation of Policy EXX (R102) could be jeopardised by this omission.

3. IC25 should cover the position of future AMs and well as existing ones and should be endorsed.

Recommendation

4. I recommend that the RDDP be modified as set out in IC25. Consideration should be given to depicting other important sites the subject of Policy EXX (R102) on the PM. Otherwise, no modification should be made in respect of the above objections.

E21 GREENWOOD COMMUNITY FOREST

Objections

E21 Greenwood Community Forest

1135 2396 Mr I Moss House Builders` Federation

E21 R105 Greenwood Community Forest – Addition of reference to creation of appropriate new habitats

1106 4913 R105 Mr R Hepwood Miller Homes East Midlands

E21a Greenwood Community Forest

1106 2247 Mr R Hepwood Miller Homes East Midlands

E21a R106 Greenwood Community Forest – Ammendment of wording regarding provision of planting/habitat creation

601 4609 R106 Mr S Rufus Nottinghamshire Wildlife Trust

Summary of Objection Issues

E21 Greenwood Community Forest

1135/2396: House Builders Federation

1. A requirement for woodland planting cannot be imposed by condition because it is neither necessary nor relevant to the development to be permitted and it would not pass the test set out in Circular 1/97 on Planning Obligations.

Council's Response:

2. In the Revised Deposit Draft, the reference to 'requirements' was revised to state 'negotiations' to be in line with Circular 1/97. In the Council's view, woodland planting can often legitimately be the subject of a legal agreement coming within the scope of Circular 1/97.

E21 R105 Greenwood Community Forest – Addition of reference to creation of appropriate new habitats

1106/4913: Miller Homes East Midlands

3. Miller Homes object to proposed policy E21 on the basis that it is contrary to Circular 1/97 (Planning Obligations). The advice contained in the circular requires for all planning gain to be directly related to the development proposed. Miller Homes believe that the provision of woodland planting is not directly related to the development, particularly where planting is proposed to take place elsewhere in the Borough as suggested in paragraph (a). Notwithstanding these comments, Miller Homes believe that the policy should also acknowledge that woodland planting will be waived where it would threaten vitality of the scheme. Finally Miller Homes are concerned at the suggestion that planted areas should allow public access. This would not be practical where land is to remain in private ownership.

4. The policy should be deleted or amended to acknowledge the above shortcomings.

Council's Response:

5. The Council is satisfied that woodland planting can come within the scope of a legal agreement under Circular 1/97. The potential for public access and the practicalities of this would be discussed as part of the negotiations. The Council recognise that on some occasions public access will not be viable.

E21a Greenwood Community Forest

1106/2247: Miller Homes East Midlands

6. Support the proposal for H2d that the planting forms part of the Greenwood Forest, but do not accept that this should necessarily form part of the Green Belt.

Council's Response:

7. Refer to the Council's response for H2d (Proof 028). Note that Pre-Inquiry change PIC 2 proposes the deletion of this site.

E21a R106 Greenwood Community Forest – Amendment of wording regarding provision of planting/habitat creation

601/4609: Nottinghamshire Wildlife Trust

8. This amendment reaffirms the boarder aims of the Greenwood Community Forest for the creation of a wide range of habitat types. We welcome this recognition. However, we are concerned that replacing 'requiring' with 'negotiating' may indicate a relaxing of the pursuit of such opportunities. We feel that it is important that developments of this scale should contribute towards the establishment of semi natural habitats, for the benefit of the borough's wildlife and for the people that will be living in the area.

9. We recommend that the Council reinstate the word 'requiring' in preference to the word 'negotiating'.

Council's Response:

10. Support for amendment of wording regarding provision of planting and habitat creation is noted. The word 'requiring' has been replaced with 'negotiating' in order to comply with Circular 1/97 Planning Obligations. The Council agrees with the Trust that it is important for developers to contribute to the provision of habitats, but the policy wording must accord with government guidance and legislation.

Inspector's Conclusions

1. The Local Plan, contrary to the indication in paragraph 3.126, does not highlight specific planting areas as part of a strategy to create large areas of woodland, heath and open land in urban fringes. It is insufficient to identify most of Broxtowe's rural areas as lying within the defined Greenwood Forest area. This is hardly consistent with the above strategy. The danger is that all that will result is a series of small fragmented planted areas.

2. Landscaping within and on the edges may be a legitimate requirement of many developments and will often include tree planting. The scale of this will depend upon the circumstances of particular schemes. Issues of viability may be material considerations in agreeing landscaping schemes but this does not deserve mention in this or in other policies. However, this landscaping has specific objectives directly related to the development. I fail to see how these objectives can be transferred to other sites elsewhere in the borough. I agree with the HBF and Miller Homes that Policy E21 goes too far in this respect. The Council may be free to negotiate contributions from developers covering a wide range of public benefits and some may acquiesce. Notwithstanding, this freedom it would be wrong to embody in a LP policy a requirement that clearly falls outside the advice of Circ 1/97. The last part of criterion a) from the terms "or where this is impracticable" is unrelated to the new development and should be deleted. It is difficult to visualise sites where planting would be impracticable but where this is the case, planting elsewhere is hardly likely to provide any relevant compensation.

3. In this case, the original term "requiring" is more appropriate than the term "negotiating" and should be re-instated.

4. I see no objection to newly planted areas being designed to allow public access subject to the caveat "wherever possible".

Recommendation

5. I recommend that the RDDP be modified by deleting the last part of criterion a) from the terms "or, where" and by substituting the term "requiring" for "negotiating" in the 1st line.

E22 TREES, HEDGES AND TREE PRESERVATION ORDERS

Objections

3.128 Trees, hedgerows and tree preservation orders

601	2756	Mr S Rufus	Nottinghamshire Wildlife Trust

3.129 Trees, hedgerows and tree preservation orders

601	2758	Mr S Rufus	Nottinghamshire Wildlife Trust

E22 Trees, hedgerows and tree preservation orders

598	2643	Mr I Brown	CPRE - Broxtowe Group

1383	3531	Mr S Clifton	English Nature East Midlands Team
1135	2407	Mr I Moss	House Builders` Federation
601	2760	Mr S Rufus	Nottinghamshire Wildlife Trust
111	114	Mr G Staddon	Lafarge Aggregates Ltd

Summary of Objection Issues

3.128 Trees, Hedgerows and Tree Preservation Orders

601/2756: Nottinghamshire Wildlife Trust

1. Welcome the coverage of these issues in the Plan. However feel that this paragraph needs to be amended to reflect the wildlife value of trees and explain the importance of certain trees which cannot be protected by the TPO mechanism.

Council's Response:

2. This paragraph does refer to the general importance of all trees. However the policy focuses on those trees which are protected or are suitable for protection by a Tree Preservation Order. This focus is necessary as other trees do not benefit from any statutory protection.

3. Trees may be considered suitable for protection with a TPO if a tree has particular historic value, or association, is an outstanding specimen in its own right, or has particular botanical interest or rarity. However the wildlife value of a tree alone is not normally sufficient to attach a TPO.

Inspector's Conclusions

1. The NWT make a valid point. Trees are important to the borough's wildlife as well as to its landscape and townscape. Contrary to the BBC's assumptions, Policy E22 in the RDDP is not restricted to trees protected by a TPO but applies to all important trees; a point they subsequently recognised in IC26. The NWT's point could be covered by the modifications that I recommend below but without overburdening paragraph 3.158 with the unnecessary detail they suggest. I also accept the substance of their proposed amendment to Policy E22 below.

Recommendation

2. I recommend that the RDDP be modified by set out below.

3.129 Trees, Hedgerows and Tree Preservation Orders

601/2758: Nottinghamshire Wildlife Trust

1. The paragraph is too limited in its scope with its first sentence, which states, "the policy aims to ensure that the setting of attractive trees and hedges in the borough is not compromised by development". Believe that great importance is afforded to trees and hedges by their intrinsic wildlife value, as well as just their aesthetic qualities (although we do recognise that wildlife value can be an integral part of attractiveness). Furthermore, we feel that the Policy does protect trees and hedges, not just their setting. We have one further concern, which relates to the limited scope of the Hedgerow Regulations 1997, which only protect about 20% of rural hedges nationally, and a

much smaller percentage in Nottinghamshire as a result of the County's geographic position and landscape history. It should also be noted that the Hedgerow Regulations cannot be applied to urban hedges.

Council's Response:

2. The Council is aware that the hedgerow regulations only cover certain hedgerows. This effectively means that if an individual or developer wishes to remove a hedge within a domestic curtilage, the Council has no powers to prevent this.

3. The Council considers that the scope of this paragraph is sufficient to cover those trees and hedgerows that are covered by some form of statutory designation (or could be suitable for such protection). However, following further consideration, it is proposed to change the wording of policy E22 itself. The amended wording is clearer, closely reflects the relevant legislation, and avoids misunderstandings that may have arisen due to the ill-defined nature of the original wording.

Inquiry Change

IC26

4. **The Council has recommended that the text of policy E22 is amended to read: "Development which would adversely affect a tree covered by a Tree Preservation Order, an important hedgerow under the Hedgerow Regulations 1997, or other trees that make a significant contribution to the landscape and townscape character of the Borough, will not be permitted".**

598/2643: CPRE - Broxtowe Group

5. These paragraphs mention hedgerow protection and Tree Preservation Orders but we feel that the Council could do more to assist in the protection of hedgerows by undertaking a survey of hedgerows in the Borough and designating protection of those of specific importance. The policy refers to trees and hedgerows important to the landscape and townscape character of the Borough but trees and hedgerows are important in their own right irrespective of their particular setting and deserve equal protection.

Council's Response:

6. The Council does not have any powers to designate particular hedgerows for protection. However any proposals to remove part or all of an 'important' hedgerow will be assessed with regard to the 1997 Hedgerow Regulations. The removal of trees or hedgerows within residential or in urban areas does not normally need any form of permission (the only exceptions being where a tree is covered by a Tree Preservation Order or where a tree is sited within a Conservation Area). However, note that the Council does propose a change in the wording of Policy E22 that will give specific protection to TPO trees and "important" hedgerows (refer to amended wording in paragraph 7).

7. Where proposed development would result in the loss of any tree or hedgerow the Council will in every case assess the importance of the tree or hedgerow to the landscape and townscape character. If a tree has particular historic value or association, is an outstanding specimen in its own right, or has particular botanical interest or rarity, it may be considered suitable for protection with a tree preservation order (TPO). As already stated, development adversely affecting a tree covered by a TPO will not be permitted.

1383/3531: English Nature

8. Concerned that this policy concerns itself solely with the amenity and attractiveness of trees and hedgerows. Many of these features often have considerable ecological significance, and this is recognised by the Hedgerows Regulations. Additionally, no mention is made of ancient woodlands,

which are of importance for a variety of reasons, including ecology, historical & cultural associations and landscape value. English Nature holds the provisional Inventory of Ancient Woodland. National government land use and forestry policy strongly supports the protection of ancient woodland from harmful development. This is also required by Structure Plan policy 3/9, and should be translated into the policies of the plan.

Council's Response:

9. It is proposed to amend the wording of this policy as suggested in paragraph 7 of this proof. The Council recognise the importance of ancient woodlands which are protected under the revised policy E22. It should also be noted that all the ancient woodlands within Broxtowe Borough Council area also designated SINCs.

1135/2407: House Builders' Federation

10. The policy has an absolute prohibition on development affecting trees which does not allow other important considerations to be taken into account.

Council's Response:

11. This Council considers the protection of trees and hedgerows is important to ensure an attractive and sustainable environment. This is supported by the advice in various Planning Policy Guidance Notes, including PPG1 - General Policy and Principles, PPG3 - Housing, PPG15 - Planning and the Historic Environment, and PPG17 - Sport, Open Space and Recreation. Applicants are free to demonstrate material considerations that justify granting planning permission contrary to Policy E22.

601/2760: Nottinghamshire Wildlife Trust

12. Broadly supportive of this Policy, however we have concerns over key aspects relating to trees and hedges, which are not covered. Suggest an amendment as follows 'Development which would adversely affect important trees and hedgerows will not be permitted in any part of the borough.

Council's Response:

13. It is proposed to amend this policy through IC22 as suggested in paragraph 7 of this proof. The Council does not consider the wording suggested by Nottinghamshire Wildlife Trust would be sufficiently robust to allow for the defence of decisions at appeal.

111/114: Lafarge Redland Aggregates

14. As stated in the supporting paragraph to the policy, trees and hedgerows are covered by other forms of statutory protection therefore the policy is superfluous.

Council's Response:

15. Policy E22 states how planning applications involving the loss of trees or hedgerows will be assessed. Therefore the Council considers that the policy is both useful and necessary.

Inspector's Conclusions

1. I agree with the NWT that Policy E22 seeks to preserve important trees and hedgerows rather than attractive ones and not simply their setting. The term

"important" in contrast to the term "attractive" covers ecological value as well as landscape/townscape value. Paragraph 3.129 should be amended accordingly. The term "important" should be substituted for "attractive", it should refer to "hedgerows" not "hedges" and the term "setting" should be deleted.

2. The Policy is concerned with development proposals that affect trees and hedgerows, not with other activities of householders, landowners and developers. The Council clearly has powers to seek the retention of trees and hedgerows affected by development proposals, whether covered by TPOs and hedgerow regulations or not. TPOs and the hedgerow regulations cover impacts from other actions that do not involve development but that is outside the scope of the Policy as written. Thus there is clear basis for Policy E22; it is not covered by other legislation as Lafarge assume.

3. IC26 confuses the LPA's powers relating to TPOs and hedgerow regulations with its planning powers when considering development proposals. If the Council wish to restrict the Policy to trees and hedgerows adversely affected by development proposals, it is unnecessary to refer to trees covered by TPOs and hedgerow regulations. The term "significant contribution" is vague; "important", as suggested by the NWT, is to be preferred. The second part omits other important hedgerows and unnecessarily confines it to the contribution to landscape and townscape character to the exclusion of wildlife and other values.

4. Contrary to the BBC's assertions, neither Policy E22 nor IC26 protects ancient woodlands unless development is involved. Nor for that matter does Policy E17 relating to SINCs. However, Policy E22 should protect ancient woodlands from damaging development proposals without the need for a separate policy.

5. As Policy E22 applies to important trees and hedgerows, its application should not prove unduly onerous to developers. The Act provides that all policies in the Plan must be subject to other material considerations when development proposals are determined. However there is no need to mention such provisions here.

6. In consequence, Policy E22 should be retained but reworded to read " Development that would adversely affect important trees and hedgerows will not be permitted". I cannot see how this is any less robust than Policy E22 in the RDDP or the confused and vague IC26.

7. The Council should also give consideration to redrafting paragraphs 3.128 and 3.129 in order to clarify their respective powers in respect of trees and hedgerows affected by development proposals and those relating to TPOs and hedgerow regulations. Although much to the regret of the NWT and the CPRE the designation of the latter is restricted at present and the LPAs has no powers to control the loss of other hedgerows where development is not involved. Any redrafting should explain that trees may be important to wildlife as well as landscape and townscape and that ancient woodlands are protected from development by Policy E22.

Recommendation

8. I recommend that the RDDP be modified by rewording Policy E22 to read "Development that would adversely affect important trees and hedgerows will not be permitted" and that paragraphs 3.158 and 3.159 be modified as concluded above.

E23 RENEWABLE ENERGY DEVELOPMENT

Objections

3.131			***Renewable energy development***	
1429	3754			British Wind Energy Association Brodies W.S.
E23			***Renewable energy development***	
1429	3755			British Wind Energy Association Brodies W.S.
1169	2585		Cllr M Rich	
601	2762		Mr S Rufus	Nottinghamshire Wildlife Trust
E23 R111			***Renewable energy development – Reprising of reference to harm***	
1429	5380	R111		British Wind Energy Association Brodies W.S.
E23b R112			***Renewable energy development – Addition of reference to landscape character***	
1429	5381	R112		British Wind Energy Association Brodies W.S.
112	4097	R112	Mr PR Tame	National Farmers Union

Summary of Objection Issues

3.131 Renewable energy development

1429/3754 British Wind Energy Association

1. The planning authority should not take account of “technical non planning criteria like wind speeds” in determining planning policy.

Council’s Response:

2. The reference to wind speeds is an accurate statement based on the East Midlands Renewable Energy Planning Study. It is appropriate for the scope of policies in the Local Plan to be influenced by the particular characteristics of the area, including wind speed characteristics. The content of a more recent document “Viewpoints on Sustainable Energy in the East Midlands” has also been assessed, and does not invoke the need for any revision of this part of the Local Plan.

Inspector’s Conclusions

1. It is unclear whether the BWEA's objection is specific to conditions in Broxtowe or is a generalised objection to all local plans. The reference in paragraph 3.131 of the

RDDP reflects regional studies and the advice in PPG22 paras 8 and 18. The DTI map of wind speeds show Broxtowe in an area with mean annual wind speeds of less than 5.5 m per second with perhaps speeds of 7.5 m per second on higher elevated sites. Proposals on the latter sites may conflict with landscape protection policies for Prominent Areas. However, the comment regarding viability rather prejudges the situation, particularly with respect to individual wind turbines in some locations. Advances in technology may allow lower winds speeds to be considered in future. It would be preferable to delete the words " enough to make wind power a viable option" and substitute "for wind power". However, I can see no useful purpose in extending an already lengthy document by including references to DTI papers and further descriptions of wind power issues. The former may be consulted when any individual proposals are being considered when the latter will also be brought forward.

Recommendation

2. I recommend that the RDDP be modified by deleting delete the words " "enough to make wind power a viable option" from paragraph 3.131 and substituting the terms "for wind power".

E23 Renewable Energy Development

1429/3755, 5380-1 British Wind Energy Association

1. Reference should be made in the preceding paragraph to certain DTI papers. The Plan should contain clear wind energy development policies with detailed criteria. Alternatively, detailed wording amendments are proposed. Wind energy development should be mentioned specifically. The policy should refer to safeguarding permitted or operational wind turbines. In revision R111, replacing the word "major" with "demonstrable" "places an even greater obstacle in the way of renewable energy development, contrary to government guidance". The phrase "cause demonstrable harm" should be replaced with either "significantly adverse effect" or "cause significant demonstrable harm".

2. In revision R112, the words "and character" should be deleted. The policy should "permit development which is not likely to result in unacceptable intrusion upon the intrinsic landscape qualities of an area".

Council's Response:

3. The Plan would become excessively detailed if reference were made to all potentially relevant papers.

4. As noted in paragraph 3.131, wind power is unlikely to be a viable option in Broxtowe and therefore a specific policy would be inappropriate. However, Policy E23 relates to all renewable energy techniques, including wind energy.

5. Wording amendments have been made in response to this and other objections (R109-112) and the Council considers that the revised wording deals appropriately with the issues raised. Wind energy is not mentioned individually for the reasons given above. Given the wind speed characteristics of the borough, the Council considers reference to safeguarding permitted or operational wind turbines to be unnecessary and inappropriate.

6. R111 has been made at the request of the Government Office, for reasons of clarity. The Council considers that the policy is still appropriately supportive of renewable energy developments.

7. The words "and character" have been added in order to meet the Countryside Agency's recommendation of the use of the term "landscape character", in recognition of the "countryside character" approach. Both the Countryside Agency and the CPRE support R112 (representations 1363/5263 and 598/4433). The Council does not consider that the objector's proposed wording would add to the clarity of the policy.

1169/3665 Councillor M Rich

8. The policy should refer to modern wind power generators.

Council's Response:

9. The policy relates to all renewable energy techniques, including wind power generators.

601/2762 Nottinghamshire Wildlife Trust

10. Rewording is proposed so as to "actively encourage" the developments referred to.

Council's Response:

11. Government advice discourages the use of terms such as "encourage" within policies, as they can reduce the clarity of policies for development control purposes. However, following further consideration the Council wishes to suggest an amendment to the wording of paragraph 3.132 in order to give additional information and aid understanding by describing the purpose of the proposed guidance leaflet.

Inquiry Change

IC27 12. **The Council has recommended that the following should be added at the end of paragraph 3.132: "which will actively encourage developers to incorporate them within new development whenever practical".**

E23b R112 Renewable Energy Development - Addition of reference to landscape character

112/4097 National Farmers Union

13. The Policy should be amended to include reference to renewable energy crops and ancillary development with a presumption in favour provided demonstrable harm is not caused to the four criteria listed in the policy.

Council's Response:

14. The policy deals with all kinds of renewable energy techniques and a reference to one particular technique would therefore be inappropriate.

Inspector's Conclusions

1. I deal with the request to include a reference to DTI papers and other material relating to wind power generation above. I cannot visualise the means of or justification for safeguarding the commercially viable operation of permitted or operational wind turbines from other neighbouring development and, in any case, I am unaware of any turbines that exist in Broxtowe. I disagree that the term "demonstrable" presents a greater obstacle than the term "major". However, even though it is used in the PPG, it is superfluous because if harm cannot be demonstrated, by the LPA, it is unlikely to be a material consideration. In consequence, it should be deleted. The term "significant" is also superfluous since insignificant effects are also unlikely to be material. The term “harm” is clear, concise and well understood; it is to be preferred to the term “detrimental effect”, which has a similar meaning and would simply be change for its own sake. The term "unacceptable" describes the outcome of a decision rather than determining criteria and is not helpful. The rest of the BWEA’s suggestions for criterion b) are longer and less precise than the terms “ harm to landscape quality and character”. I again cannot see the merit in BWEA’s suggested additions to criterion d). If sites are not recognised by designation they are unlikely to present constraints on nature conservation grounds unless protected species are involved.

3. I cannot see any obvious correlation between the Countryside Character Approach of the Countryside Agency and the acceptability of renewable energy developments. However, landscapes of a particular character in terms of form and land use may be more accommodating than others and the term character introduced by R112 should be retained to cover this aspect. However, it is an insufficient substitute for “quality” as the Agency once requested.

4. Policy E23 covers all forms of renewable energy technology and a separate policy or special mention of wind turbines, modern wind power generators and renewable energy crops with ancillary development is not justified. In any case, renewable energy crops are not subject to planning control. However, for the avoidance of doubt the terms “including those utilising photovoltaic cells and active solar equipment” should be deleted from the Policy. It is more than covered in para 3.132 and deserves no special mention in Policy E23 compared to other technologies.

5. IC27 usefully spells out the BBC's intentions to promote certain technology and should be supported. This goes some way to meeting the NWT's concern, but this type of initiative is unsuitable for inclusion in Policy E23. It is inappropriate to include the reference to “maximum extent”, as the extent of provision will depend upon a number of factors. It is normal practice to assess all development proposals and to weigh any conflicting factors when reaching a decision. It is also unnecessary to describe this process in the supporting text for this Policy. The Regulations will determine whether an Environmental Impact Statement is required for any particular development.

Recommendation

6. I recommend that the RDDP be modified as set out in IC27 and by deleting the terms "demonstrable" and “including those utilising photovoltaic cells and active solar equipment” from Policy E23. Otherwise I recommend that no modification be made to the RDDP in respect of these objections.

E24 POLLUTION

Objections

3.134	***Pollution***	
599 2700	Mr G Foster	Nottinghamshire County Council
3.135	***Pollution***	
599 2701	Mr G Foster	Nottinghamshire County Council
E24	***Pollution***	
1006 2109		Nuthall Parish Council
		Browne Jacobson Planning Unit
598 2637	Mr I Brown	CPRE - Broxtowe Group
599 2706	Mr G Foster	Nottinghamshire County Council

Summary of Objection Issues

3.134-3.135 Pollution

599/2700-2701 Nottinghamshire County Council

1. Air quality should be described as "good" rather than "high".

2. Further investigation should be carried out into levels of "PM_{10}"and nitrogen dioxide near the motorway.

Council's Response:

3. The paragraph has been reworded in the manner proposed, by means of revision R113. A report produced by consultants for the Council has concluded that it is likely that the air quality objectives for nitrogen dioxide and PM_{10} will be met at all locations assessed near the M1 and major roads in Broxtowe, where members of the public might be exposed for relevant periods. The report recommends that the Council does not declare an Air Quality Management Area and the DETR have confirmed this position.

Inspector's Conclusions

1. R113 met the NCC's first point. In view of the NCC's 2nd point and BBC's response, consideration should be given to redrafting paragraph 3.135 to bring it up to date.

Recommendation

2. I recommend that the RDDP be modified by replacing paragraph 3.135 in accordance with the Council's response.

E24 Pollution

598/2637 CPRE

1. While supporting the paragraphs and Policy E24 we believe that the policy would be strengthened worded as follows: Planning permission will not be granted for development which would result in a significant deterioration in air quality *or harmful effects of emissions into the* air, significant loss of amenity *or health* to the occupants of nearby premises due to pollution, *or development which would adversely affect the water quality of water bodies, their surface or waste water discharge, or the disturbance of contaminated land.*

Council's Response:

2. The Council does not consider that the proposed wording changes would add to the clarity or conciseness of the policy.

3. The existing term "deterioration in air quality" covers the proposed term "or harmful effects of emissions into the air". The existing term "amenity" covers the objectors' proposed addition "or health". The proposed replacement of the term "surface waters" with "water bodies" would not be helpful as groundwater is dealt with by a separate policy, policy E25. The proposed reference to the surface or waste water discharge of water bodies would be unnecessary and would not increase clarity. The proposed reference to contaminated land would not be helpful as contaminated land is dealt with by a separate policy, policy E27.

599/2706 Nottinghamshire County Council

4. Minimum separation distances for polluting uses should be indicated in the policy and/or text.

5. It may be helpful to refer to the role of the Environment Agency in the supporting text.

Council's Response:

6. Paragraph 11.32 of the Structure Plan notes that the degree of separation necessary will depend upon the nature of the use and the extent of the risk from the hazard or polluting source. For this reason the Council does not consider it appropriate to try to specify minimum separation distances within the Plan.

7. In the absence of a specific proposal, the Council considers the current scope of the supporting text to be appropriate.

1006/2109 Nuthall Parish Council

8. The word "significant" should be removed from the phrase "significant deterioration in air quality".

Council's Response:

9. The Council disagrees, as it would be unreasonable to refuse permission for a development which would not have a significant adverse effect.

Inspector's Conclusions

1. The terms "deterioration in air quality" covers the harmful effects of emissions into the air. However, the term amenity does not usually cover health matters and the inclusion of the latter term would improve the clarity of the Policy, although much of the control over health effects is the responsibility of the Environment Agency, rather than the LPA.

2. There is already some duplication between Policies E24 and E25 regarding contamination of surface waters and the CPRE's suggestions would exacerbate this. The development of contaminated land, which is another of their suggested inclusions, is already covered by Policy E27. In any case, the CPRE's suggested addition would appear to preclude development of any contaminated land that involved disturbance, irrespective of mitigation measures that might be employed. The effect of that approach could be counter productive to the government's commitment towards the development of brownfield land, which CPRE itself strongly supports.

3. The depth of "buffer zones" will reflect the nature of particular proposals, the potential pollutants, local circumstances and the mitigation measures, other than distance, to be employed. It is unhelpful to quote minimum separation distances in isolation.

4. It is unclear what the NCC seek by way of a reference to the role of the EA and I can see no strong reasons to extend the supporting text.

5. I agree with the Council that it would unreasonable to refuse permission for developments that have no "significant" adverse effect; thus the term is unnecessary and should be deleted.

Recommendation

6. I recommend that the RDDP be modified by including the term "health or" before the word "amenity" in Policy E24 and by deleting the term "significant".

E25 PROTECTION OF GROUND WATER

Objections

3.142	***R114***		***Protection of groundwater – Addition of reference to Environment Agency's guidance booklet***	
601	4611	R114	Mr S Rufus	Nottinghamshire Wildlife Trust
E25			***Protection of groundwater***	
601	2765		Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

3.142 R114 Protection of groundwater – Addition of reference to Environment Agency's guidance booklet

601/4611 Nottinghamshire Wildlife Trust

1. The Trust "warmly welcomes" this revision. However, it considers that the Council should include a requirement for developers to "explore and incorporate Sustainable Urban Drainage schemes wherever practical to do so".

Council's Response:

2. The Council has proposed an additional criterion be added to the end of Policy E1 to read "sustainable techniques to minimise the impact of surface water discharges". (Refer to IC7 - Proof 055). The Council also agrees there should be further reference to SUDs in the supporting text of Policy E25 and therefore a further amendment is proposed as an Inquiry Change. The Council considers that this will overcome the Trust's objection.

Inquiry Change

IC67 **Therefore the Inspector is invited to recommend that the last sentence of para. 3.142 is deleted and substituted with the following sentence: "Positive measures and techniques to reduce the impact of surface water discharges and benefit the recharge of groundwater can be found in the Environment Agency's guidance on Sustainable Drainage Systems".**

Inspector's Conclusions

1. IC67 usefully expands R114 and should meet one of the NWT's concerns. However, reference to Policy E1, which includes provision for sustainable techniques to minimise the impact of surface water discharges, could also be added to paragraph 3.142. However, it would be undesirable to duplicate the same provision in two separate policies.

Recommendation

2. I recommend that the RDDP be modified as set out in IC67 and by the addition of the words " Policy E1 includes provision for sustainable techniques to minimise the impact of surface water discharges".

E25 Protection of groundwater

601/2765 Nottinghamshire Wildlife Trust

1. The wording does not go far enough, as no avoidable contamination of groundwater should be countenanced. The policy is also inconsistent, in that "it states that development will not be permitted if it will result in contamination, unless the contamination is prevented". The policy should therefore be replaced by the following:
"Planning permission will not be granted for development which may result in infiltration of contaminants into groundwater resources. Where such contaminants are generated by a development, permission will only be given if it can be demonstrated that robust measures to prevent such contamination will be incorporated".

Council's Response:

2. The Council believes the policy does not countenance any avoidable contamination of groundwater and therefore meets the Trust's requirements. The Council also does not agree that the policy is inconsistent, because it relates to any development which "would be liable" to result in contamination, rather than development which "will" result in contamination. The Trust's proposed revised wording does however contain an inconsistency of a similar kind. The Council considers it significant that the policy as proposed in the Plan and reasoned justification have the support of the

Environment Agency (representation 1388/3619); this text states that the Council will assist the Agency in its duties to protect water resources.

Inspector's Conclusions

1. The inclusion of the term "robust" is unnecessary as measures lacking this quality would be unlikely to prevent contamination taking place. Otherwise, I perceive no improvement in the alternative policy put forward by the NWT.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

E26 PROTECTION OF FLOODPLAINS

Objections

598	2599	Mr I Brown	CPRE - Broxtowe Group
927	2329	Mr RP Bullock	
1383	3532	Mr S Clifton	English Nature East Midlands Team
601	2769	Mr S Rufus	Nottinghamshire Wildlife Trust

Summary of Objection Issues

598/2599 CPRE – Broxtowe Group

1. Extra paragraphs should be added which assess the direct and indirect effects of new development on the river floodplains, including the effects of surface run-off on flood flows and water table levels.

Council's Response:

2. In the absence of an objection from the Environment Agency, the Council is satisfied with the scope of the current policy and paragraphs. Any criteria relating to indirect effects of development on floodplains would need to be included in policy rather than supporting paragraphs and it is not clear what could usefully be said on the subject. The Environment Agency will continue to have the opportunity to comment on all planning applications if it considers that they would have adverse effects on floodplains.

927/2329 Mr R Bullock

3. To the north of the confluence of the Gilt Brook and the River Erewash, a larger area should be identified as floodplain.

Council's Response:

4. The Council agree that the most up to date information should be shown on the proposals map and therefore an inquiry change is proposed. The revised wording closely reflects government guidance in PPG25 by ensuring the latest floodplain information is shown.

Inquiry Change

IC28

5. **The Council has recommended that the proposals maps should be amended to show the latest floodplain information, provided by the Environment Agency in November 2000.**

This includes as part of the floodplain the area referred to by the objector.

1383/3532 English Nature

6. The policy and accompanying text should be amended to refer to the ecological significance of floodplains.

Council's Response:

7. Paragraph 3.144 has been amended in the manner proposed by means of revision R115. Amending the policy itself would detract from the clarity of its purpose. Sites and features of ecological significance, within floodplains and elsewhere, are dealt with by policies E16-E18, EXX and E21-E22.

601/2769 Nottinghamshire Wildlife Trust

8. The policy should also state that permission would not be granted for development which would compromise any potential future opportunities to restore the original character and function of the floodplain.

Council's Response:

9. In the Council's opinion the proposed addition would result in a policy which would be vague and unduly restrictive. The Council is not aware of any studies which define the "original character and function" of the floodplains, and sites of recognised ecological value are protected by policies E16-E18 and EXX. The proposed addition would therefore imply that permission should be refused for development on sites of no recognised ecological value on the basis that, at an unspecified time and by unspecified agencies, the sites might be restored to an unspecified "character and function". In the Council's opinion this would be unreasonable, bearing in mind the degree of protection for SINCS and other sites of ecological value, which the plan already contains. The reasoned justification has however been revised, with the support of the objector, so as to refer to the ecological significance of the floodplains (revision no. R115, representation no. 601/4612).

Inspector's Conclusions

1. The effect of development on floodplains is assessed, where applicable, in respect of individual allocations put forward in this plan and in respect of applications for planning permission at a later stage. I see no good purpose in adding extra paragraphs to this section, as suggested by the CPRE. These would only repeat the assessments already made elsewhere.

2. The latest information on the extent of floodplains should be shown on the PM, as recommended by IC28, and this should address Mr Bullock's concern.

3. R115 included reference to the ecological significance of some flood plains and partially met EN's objection. However, I can see no basis to amend a Policy concerned with the risk of flooding.

4. The change suggested by the NWT is impracticable. It is unclear what the term "original" implies and how this original character and function is to be attained after so many years of development. It would be wrong to reject otherwise acceptable proposals in pursuit of an unrealisable aim. Other policies protect sites of wildlife importance.

Recommendation

5. I recommend that no modification be made to the RDDP in respect of these objections except for that put forward in IC28.

E27 CONTAMINATED LAND

Objections

601	2538	Mr S Rufus	Nottinghamshire Wildlife Trust
1085	2261	Mr JM Tebbs	SABRHE

Summary of Objection Issues

601/2538: Nottinghamshire Wildlife Trust

1. A clause should be added which recognises that such sites have often lain derelict for a number of years and which therefore requires an ecological survey, with features of particular interest to be retained or compensatory habitat provided.

Council's Response:

2. In the Council's opinion these issues relate more to Policy E28 than Policy E27. Policy E28 deals with a large number of specific derelict sites, some of which are also contaminated and some of which may have taken on ecological value after laying derelict for a number of years. Paragraph 3.149 states that in these cases any proposals for reclamation work will need to take account of the site's ecological value and should aim to enhance it. In contrast, sites which have been contaminated but have not lain derelict (such as the ground beneath certain types of factory), to which Policy E27 applies, are unlikely to have developed ecological value and the proposed additional clause is therefore inappropriate. Policies E17 and E18 provide appropriate protection for sites and species of ecological importance.

1085/2261: SABRHE

3. The policy should be extended to include unstable land.

4. The policy should "prevent removal of land from Green Belt and allocation for development".

Council's Response:

5. The Council is not aware that unstable land is an issue within the Broxtowe area. Issues of ground stability in cases involving buildings, will be covered by the Building Regulations. PPG14 refers to unstable land and requires Local Plans to identify areas vulnerable to potential landslip incorporating suitable policies. Since no such sites have been identified within Broxtowe, such a policy is not regarded as necessary.

6. The issues of Green Belt boundary definitions and site allocations are quite distinct from the issue of contaminated land. It would therefore be inappropriate and confusing to include references to these issues within the policy.

Inspector's Conclusions

1. Policy E27 concerns measures to deal with contamination of land. There will be other factors involved in development of such land, possibly including any ecological interests. However, it would be misleading to confuse this Policy by referring to other matters that are in any case covered by other policies of the Plan. Furthermore, in respect of derelict land, to which the NWT refer, attention is drawn to a site's potential ecological value in paragraph 3.149 and in R116.

2. SABRHE's concern stems from the site specific allocation EM3d. The Council's assessments indicate that this site can accommodate development and I support the allocation in Chapter 5. I see so reason why the issue of unstable land should be included in this or in a separate policy to address a particular site issue.

Recommendation

3. I recommend that no modification be made to the RDDP in respect of these objections.

E28 DERELICT LAND

Objections

E28			***Derelict Land***	
1420	3735			Bellway Estates & Giltbrook Landowners Consortium Shoosmiths Solicitors
1381	3478		Ms F Forgham	Government Office for the East Midlands
601	2775		Mr S Rufus	Nottinghamshire Wildlife Trust
E28 R118			***Derelict land - Rephrasing of references to proposals and commitments for the sites plus correction of references to the Watnall Station site***	
1114	4997	R118		Hardy & Hansons
E28a			***Reclamation of derelict sites: Awsworth/Kimberley former railway***	
599	2693		Mr G Foster	Nottinghamshire County Council
E28h			***Newthorpe: former Halls Lane tip***	
1155	2481			Greasley Parish Council Andrew Thomas Planning

Summary of Objection Issues

Before considering the objections received the text below details a number of amendments proposed by the Council in order to aid understanding and ensure consistency throughout the Local Plan.

Inquiry Change

IC29 **The Council has recommended that: The term "habitat management or creation" should replace the term "planting initiatives" in the fourth sentence of paragraph 3.149. The fifth sentence should be replaced with "some sites have become important for wildlife through re-vegetation". The following further sentence should be added: "Where there is no current end use proposed for a site which is proposed for reclamation, the Council will examine the possibility of developing the site for appropriate recreation and nature conservation."**

A definition of reclamation should also be added to the glossary in Appendix 12: "Reclamation: the treatment of derelict land which results in the most appropriate use according to its current condition and location. This may be achieved through appropriate development or land management for nature conservation."

E28 Derelict land

1420/3735 - Bellway Estates and Giltbrook Landowners Consortium

1. Objection is made to no use/development being proposed for the former tip and Giltbrook, because enabling development may be needed to support the reclamation of this site.

Council's Response:

2. This site forms part of the particularly narrow, vulnerable and visually prominent Green Belt gap between Eastwood and Kimberley. The Council therefore considers it essential that the site remains in the Green Belt and that built development, other than for appropriate Green Belt purposes, should not be allowed. (This site is also dealt with in the Council's response to objection 1420/3722, which promotes site Ea8 for development - Proof 018).

1381/3478 - GOEM

3. The references to "no proposed use" are unclear and therefore the policy or the final sentence of paragraph 3.149 should be re-worded.

Council's Response:

4. The phrase "no use proposed" has been replaced by the phrase "no development proposed" and paragraph 3.149 has been re-worded accordingly (R117 and R118). However it is now proposed to delete the phrase "no development proposed" in order to avoid any ambiguity.

Inquiry Change

IC30 **The inspector is invited to recommend that the phrase "no development proposed" should be deleted in sections (c), (e), (f), (g), (h), (j), (k), (l) and (m).**

601/2775 - Nottinghamshire Wildlife Trust

5. Sites c, d, e, h and k should be proposed for nature conservation and appropriate quiet recreation.

Council's Response:

6. In the case of sites c, e and h the Council considers that potential future uses, which might involve nature conservation and recreation, are suitably dealt with in paragraph 3.149. It is not possible at this stage to be more precise about potential future uses.

7. In the case of site d, the Council considers redevelopment for employment use to be appropriate. (See the Council's response to objections to Policy EM3d, Proof 037). However policies E17, E18, EXX and E22 will protect any areas and features of ecological value.

8. In the case of site k, although no development is proposed, the Council considers that the site could be suitable for a rail freight depot. (See paragraph 5.77 and policy EM6). The protection policies referred to above would again apply.

1114/4997 - Hardys and Hansons Plc

9. The policy should state that employment use is proposed for the site of the former Watnall Station.

Council's Response:

10. Policy E28 needs to be consistent with policies EM1/EM3. As a result of revision R286, this site is no longer proposed for employment development through those policies. The detailed reasons for this are given in the Council's response to objection 1114/4991 concerning policy EM1j (Proof 134). In brief, however, the Council considers that, in light of the site's status as an SSSI, any possible permission for infilling and employment development should only be considered if very special circumstances could be demonstrated to justify an exception to normal policy. English Nature has not withdrawn its objection to the inclusion of the site in the first deposit draft as a committed employment site and its letter of 18.9.00 (included as an appendix to the objection) makes clear that the site is nationally important and that development would result in a loss of the SSSI's fossil plant resource. It also makes clear that in English Nature's opinion permission for development should only be granted in exceptional circumstances, which would have to involve mitigation measures to, firstly, provide ramped access to the remainder of the SSSI and, secondly, to enhance and maintain the remainder of the SSSI in the long term by way of a management plan incorporated in a planning agreement. If development of the site were to be considered, the allocation of the site for employment development would make it less likely that those necessary mitigation measures would be achieved. In the Council's opinion the site should therefore not be allocated for employment development in policy EM3 and there should be no reference to employment development in section m of Policy E28.

Inspector's Conclusions

1. IC29 seeks to clarify the BBC's intentions. It and R116 should help to meet some of the NWT's and the CPRE's original concerns. It should be supported. It is unnecessary to include these sentiments in Policy 28 itself, as this simply lists the known sites and the development/uses proposed in the Plan. Other policies seek to protect legitimate wildlife interests.

2. I deal later with E28e as part of omission site Ea8. Planning permission has been granted for the use of the former site for off-the-road vehicle activities. These are now extensive and cover much of the site. The site caters for recreation activities that are not easy to provide for. These also support a business on the adjoining small employment estate. Apart from the effect on the SINC, which the BBC apparently accepts, I was not made aware of any particular problems that the

permitted activities cause in the area. In the light of this, it is unclear what reclamation the Policy seeks at the present time. However, I reject the objectors' proposals for reclamation in association with their proposed residential development on adjoining land, site Ea8.

3. R117 and subsequently IC30 seek to correct the confusion caused by the terms of the FDDP and the RDDP respectively and should meet GOEM's one time point. IC30 should be supported except in respect of E28e, which should include the term "recreation" in the brackets to reflect the permitted use.

4. Development in the Green Belt and on the B&MV agricultural land can only be reduced if use is made of brownfield land and of appropriate derelict and underused land elsewhere. The Plan has a responsibility to make provision for future housing and employment needs and it is not always possible or desirable to give the priority to nature conservation interests that the NWT would otherwise wish.

5. Thus, I support in Chapter 5 the employment allocation EM3d on site E28d and the re-allocation of E28m for employment as EM1j. I support in a later Chapter, the allocation of E28h for recreation in association with a residential allocation on site Ea9. I also recommend in Chapter 2, the identification of Toton sidings site E28k as a major developed site within the Green Belt to facilitate its re-development as a freight depot in the interest of the local economy and the road network. The terms of IC30 for E28g accurately reflect the present position and do not prejudge the situation.

Recommendation

7. I recommend that the RDDP be modified as set out in IC29 and IC30 except in respect of E28e, E28h, E28k and E28m, which should include the appropriate uses suggested above.

E28a Reclamation of derelict sites: Awsworth/Kimberley former railway

599/2693 - Nottinghamshire County Council ("holding objection")

1. The reclamation of the former Awsworth/Kimberley railway could destroy or detrimentally affect the Nuthall Cutting SINC.

Council's Response:

2. The proposed long distance trail will provide a valuable amenity for local people and has the support of Nuthall Parish Council (representation 1006/2078). However, paragraph 3.149 states that proposals will need to take account of the site's ecological value and should aim to enhance it, whilst Policy E17 will also protect the SINC. In the Council's opinion it will be quite feasible, given suitable attention to detail, to implement the long distance trail whilst protecting and enhancing the ecological value of the cutting.

Inspector's Conclusions

1. It is unclear how the proposed long distance trail would enhance, let alone protect the ecological value of the Nuthall Cutting SINC, notwithstanding the amenity value of the trail to local people. However, in the absence of any details I am unable to come to any reasoned conclusions. The issues will have to be considered and resolved at a later stage.

Recommendation

2. I recommend that no modification be made to the RDDP in respect of this objection.

E28h Newthorpe: former Halls Lane tip

1155/2481- Greasley Parish Council

1. The former Halls Lane tip should be allocated for residential or employment development.

Council's Response:

2. The site was used for the tipping of domestic waste and continues to emit significant quantities of landfill gas. These emissions are controlled and present no risk to nearby residents, however significant safety risks would be involved if the site were to be developed for housing or employment development. Having taken the advice of its environmental health officers, the Council considers that the site remains unsuitable for built development. (This site is also dealt with in the Council's response to objections promoting site Ea9 for development) (Proof 013).

Inspector's Conclusions

1. In the case of E28h, I deal with this above and in a later Chapter.

Recommendation

2. I recommend that the RDDP be modified by annotating Site E28h as recommended above.

E30 HAZARDOUS SUBSTANCES AND INSTALLATIONS AND MAJOR PIPELINES

Objection

1381	3479	Ms F Forgham	Government Office for the East Midlands

Summary of Objection Issues

1381/3479: GOEM

1. The consultation areas should be shown on the proposals map.

Council's Response:

2. In the Council's opinion this would add excessive detail to the map and would make it hard to read in places. Since the major hazard areas are defined by the HSE and could therefore be subject to future changes without reference to the Council, it is considered inappropriate to use the proposals map for this purpose. However it is proposed to add a sentence to the reasoned justification in order to emphasise the need for consultation with the HSE.

Inquiry Change

IC31 3. **The inspector is invited to recommend that the following sentence should be added at the end of paragraph 3.154: "Potential developers should contact the HSE for advice at an early stage".**

Inspector's Conclusions

1. The difficulty with the RDDP, as GOEM recognise, and with IC31 is that there is little to inform a potential developer whether the proposal is in the vicinity of a hazardous installation. If it is impracticable to show the small number of installations on the PM, they should be listed in paragraph 3.154 and they and their consultation areas should be depicted in an appendix. This should suffice to alert developers to contact HSE, without burdening the text with IC31.

Recommendation

2. I recommend that the RDDP be modified by listing the existing hazardous installations in paragraph 3.154 and by depicting them and their consultation areas in an appendix.

E32 CONTROL OF NOISE NUISANCE

Objection

111	112	Mr G Staddon	Lafarge Aggregates Ltd

Summary of Objection Issues

111/112: Lafarge Redland Aggregates

1. As written the policy is too vague. It is suggested that more specific guidance is required on this issue. Suitable government guidance exists (PPG24) and therefore should be utilised.

Council's Response:

2. The Revised Deposit includes an additional sentence referring to the noise exposure categories set out in PPG24. However the Council considers the existing policy is clear and reflects the guidance given in PPG24. As such it is not proposed to amend this policy.

Inspector's Conclusions

1. R120 gives further guidance by reference to PPG24 in response to Lafarge's objection to the FDDP. Highly detailed guidance in this LP is not appropriate. Policy E32, unlike paragraph 3.158, makes no mention of mitigation measures. This could be addressed by including the terms " even with appropriate mitigation measures" after the word “occupants” in line 4 and before “occupants” in line 12. The term "significant" in lines 5 and 16 is unnecessary and should be deleted to achieve consistency with my recommendations on other policies.

Recommendation

2. I recommend that the RDDP be modified by including the terms " even with appropriate mitigation measures" after the word “occupants” in line 4 and before “occupants” in line 12 and by deleting the term "significant" in lines 5 and 16.

E33 TELECOMMUNICATIONS

Objections

E33	***R121***	***Telecommunicjations - Rephrasing of criteria and addition of reference to using existing structures***	
2217	6798	R121	One 2 One Personal Communications Ltd James Barr Consultants
1599	5515	R121	Vodafone Limited Tony Thorpe Associates
1213	5163	R121Ms F Forgham	Government Office for the East Midlands

Summary of Objection Issues

Proposed Inquiry Change:

Following the publication of revised government guidance on telecommunications the Council wishes to suggest an inquiry change to reflect this guidance.

Inquiry Change

1. **The Council has recommended that the phrase “PPG8 (1992)” in paragraph 3.161, is amended to read “PPG8 (2001)”, that the phrase “generally**
IC104 **involving” in paragraph 3.162 is replaced with the phrase “for example”, and that the phrase “(as amended)” is inserted after the words “Development Order 1995” in paragraph 3.162.**

2217/6798: One 2 One

2. Whilst the generally positive thrust of the policy is welcomed, it is necessary to make specific comments on the main body of the policy. With regard to criterion (a) of the policy, while it is commendable for the planning authority to advocate site sharing or the use of existing structures as opposed to erecting new masts whenever possible, such a requirement is inherent in all forms of control and has been advocated throughout planning guidance in this matter. Licence conditions strengthen this stance by dictating that before erecting a new mast the possibility is investigated of (i) using an existing mast belonging to the licensee or any other person, (ii) replacing an existing mast belonging to the licensee or any other person, (iii) erecting in co-operation with any other operator of a personal telecommunications system a mast for the joint use of the licensee and that other operator. Thus, we would suggest that further reference to site sharing is superfluous and

unnecessary in a Local Plan. Criterion (b) is highly ambiguous stating that 'the local and wider impact of the development' has to be addressed. We would suggest that should this criterion be included in the Local Plan policy, explanation and clarification is needed. With regard to criterion (c) and issues of siting, design and materials and external appearance of the proposed telecommunications apparatus, One 2 One endeavour to undertake suitable landscaping and camouflage schemes in an attempt to minimise visual impact in all appropriate cases. Moreover, we would like to highlight our client's involvement in developing highly innovative mast designs to ensure, where possible, installations can be integrated into its surrounding environment. However, not all base stations involve the erection of a free-standing mast; many involve existing masts or existing roof top sites. As such, it is not necessary for such criterions to enter into a local plan policy.

Council's Response:

3. Whilst the necessity for mast/site sharing is widely recognised the Council still receives a disappointing number of applications where this option has not been fully explored. Therefore the Council wishes to retain this criterion which it regards as neither superfluous nor unnecessary. The existence of such clauses within telecommunications licences is not a reason to exclude similar requests within planning policy.

4. PPG8 stresses that visual intrusion needs to be kept to a minimum. Obviously this is an important issue that needs to be assessed.

5. With regard to criterion (c) the Council does not agree that it is unnecessary. PPG8 emphasises the need for careful consideration to be given to siting, design and landscaping. Whilst all operators are no doubt aware of this guidance, the Council often remains in the position of negotiating improvements to particular schemes. It is for the Council, as planning authority, to be satisfied that such criteria are met and therefore entirely appropriate to require such a reference within planning policy.

1599/5515: Vodafone Limited

6. The GPDO only allows details of 'siting and design' to be considered. As the 'Code of Practice' tells us at 1.3 this enables 'limited, discretionary control over the siting and appearance of masts'. Other matters are outside the scope of the GPDO legislation. It seems that the proposed modifications may (by applying tests normally associated with conventional applications to prior notifications) have gone a little way beyond the intent of Parliament in this matter, suggest the policy be modified accordingly.

Council's Response:

7. PPG8 indicates that criteria (a), (b) and (c) are applicable to prior approval applications. Environmental intrusion needs to be minimised, and mast sharing/alternative sites need to be explored.

1213/5163: GOEM

8. Policy is unclear as it refers to 'Proposal .... will be ..... Granted'.

9. Suggest wording change to accurately reflect the process e.g. 'proposals will be permitted' or 'planning permission will be granted'.

Council's Response:

10. The Council accepts that the wording of this part of the policy could be clearer and therefore an inquiry change is proposed. It is considered that this amendment adds clarity to the policy and overcomes the objection made by GOEM.

Inquiry Change

IC105

11. **The Council has recommended the wording of the start of Policy E33 is amended to read: "Applications for provision or extension of telecommunications equipment will be granted (or given prior approval) provided that:".**

Inspector's Conclusions

1. IC104 and IC105 usefully clarify and update the RDDP and should be endorsed; the latter meeting the objections of the GOEM.

2. Whilst the licensing conditions may dictate full exploration of the potential for sharing masts or using existing structures this should still be demonstrated to the LPA, whose own experience shows some failings in the system in the past. This criterion thus adds no extra burden upon operators and should be readily met.

3. One 2 One may take all steps necessary to minimise visual impacts and again they should have no difficulties in demonstrating their achievement in respect of criterion c). However, even minimisation may prove unacceptable in some situations and criterion c) usefully covers this. Their suggested replacement policy provides less guidance than that of the FDDP, the RDDP, IC104 and IC105. It is inappropriate to refer to government guidance in a policy and, in any case, this is referred to in para 3.161 and IC104. The Act provides that LPAs should take account of all material considerations and the terms of the Policy in reaching decisions, but it is unnecessary to state this in the Policy as One 2 One suggest.

4. It is unclear what the term impact in criterion b) is intended to cover. The Council's response suggests in para 4 that it is concerned with visual intrusion. However, this is specifically addressed by criterion c) whose term "surroundings" should cover an appropriate area of impact. It clearly does not relate to the issue of openness in Green Belt areas to which PPG8 refers nor to the issue of noise from cooling fans, mentioned in paragraph 3.162, since this is likely, if it occurs, to be confined to neighbouring noise sensitive properties rather than locally and wider. PPG8 advises against precautionary LP policies in respect of health issues. In these circumstances criterion b) appears to be superfluous and should be deleted. Subject to this and IC105, I consider the Policy in the RDDP to be more appropriate than that suggested by One 2 One or BT, at one time.

Recommendation

5. I recommend that the RDDP be modified as set out in IC104 and IC105 and by deleting criterion b).

Ex – NEW ENVIRONMENT POLICIES

Objections

Ex		*New Environment policies*	
1429	3762		British Wind Energy Association
			Brodies W.S.
790	3657		Nottinghamshire County Council Strategic Property
1155	2515		Greasley Parish Council
			Andrew Thomas Planning
1383	3523	Mr S Clifton	English Nature East Midlands Team
1383	3536	Mr S Clifton	English Nature East Midlands Team
1383	3541	Mr S Clifton	English Nature East Midlands Team
1150	2330	Mr IM Crowe	Ramblers' Association
1150	3843	Mr IM Crowe	Ramblers' Association
599	2707	Mr G Foster	Nottinghamshire County Council
599	2725	Mr G Foster	Nottinghamshire County Council
1363	3409	Mr D Herd	Countryside Agency - East Midlands Region
1388	3618	Ms E Marshall	Environment Agency, Lower Trent Area
1468	3942	Miss A Plackett	English Heritage East Midlands Region
601	2573	Mr S Rufus	Nottinghamshire Wildlife Trust
601	3023	Mr S Rufus	Nottinghamshire Wildlife Trust
601	2574	Mr S Rufus	Nottinghamshire Wildlife Trust
1152	2336	Mr CJ Thompson	

Ex1		*New Environment paragraphs*	
598	2656	Mr I Brown	CPRE - Broxtowe Group
598	2657	Mr I Brown	CPRE - Broxtowe Group
1388	3629	Ms E Marshall	Environment Agency, Lower Trent Area
1468	3920	Miss A Plackett	English Heritage East Midlands Region
1468	3922	Miss A Plackett	English Heritage East Midlands Region
1468	3939	Miss A Plackett	English Heritage East Midlands Region

Summary of Objection Issues

New Environment Policies

1155/2515: Greasley Parish Council

1. The plan does not contain any assessment of the Brownfield/Greenfield development land requirements implied as a result of the preferred allocations.

Council's Response:

2. There are various references throughout the local plan to the assessment of sites for development. In particular, paragraphs have been added to Chapter 4: Housing to explain the urban capacity study. This matter was discussed in the Round Table sessions and papers produced to explain the division between previously used and Greenfield development.

1429/3762: British Wind Energy Association

3. Add a general policy "There will be a presumption in favour of proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

Council's Response:

4. Policy E23 and paragraphs 3.131 – 3.133 cover Renewable Energy Development. However, the East Midlands Renewable Energy Planning study found there were unlikely to be any suitable sites in this area for wind energy generation. Therefore, the Council does not consider a further policy is justified.

790/3657: Nottinghamshire County Council

5. Bramcote Hills campus, Coventry Lane, Bramcote is located in the Green Belt and is a complex of three school and associated playing fields. The County Council as Education Authority is constantly reviewing the suitability of its land and premises to meet the needs of communities in the County. It therefore wishes to reserve the right to obtain an alternative use or redevelopment on any parts of this site. The County Council would wish to be able, should this eventually arise, to secure the rights to re-develop any surplus land as conveyed by Annex C of PPG2 to this end. The site, should be recognised in the Plan as a major institutional site in the Green Belt to which PPG2, Annex C applies.

Council's Response:

6. Bramcote Hills is a narrow and sensitive area of Green Belt, which needs to be protected to ensure the separation of Bramcote and Stapleford. Bramcote Hills campus is characterised by large area of prominent and attractive open land, playing fields, and distinct buildings separated by areas free from development. As such, Broxtowe Borough Council considers that this is not a major developed site within the meaning of Annex C of PPG2 and that in this case there is no good planning reason to designate the site. It is not considered that the lack of designation will in any way prejudice the effective provision of education in this locality.

1383/3536: English Nature East Midlands Team

7. The final part of policy E17 seeks to encourage the creation and enhancement of nature conservation interest within the borough. It is suggested that this welcome initiative could be more effectively implemented if a separate policy is drawn up in this respect, applying to a wider range of instances than the local site designation context. This would be consistent with the strategic aim of the plan which seeks to protect and enhance urban and rural environments, and also consistent with PPG9, paragraph 24. If English Nature's recommendations regarding a general nature conservation policy (see comments on Chapter 3 – General Points) are not incorporated into the plan, a separate policy would be needed to secure enhancements. The following policy should therefore be added: "In considering all applications for new development, the borough council will take into account the extent to which proposals include measures for the protection and enhancement of the Borough's nature conservation resources through the improvement of existing features or the creation of new areas".

Council's Response:

8. The Council has amended E17 – Sites of Local Nature Conservation or Geological Interest, and E18 – Species Protection, and has also introduced a new policy EXX – Local Biodiversity to protect conservation habitats. It is not however considered that a further nature conservation policy would add any significant additional control that cannot be dealt with through existing/proposed policies.

1383/3541 English Nature East Midlands Team

9. The plan contains no policy protecting and enhancing landscape features outside of designated sites, which are of importance for nature conservation. This is contrary to the advice in PPG9, paragraphs 14-18; and to the legal requirements of the Habitats Regulation 1994, reg. 37. At present trees and hedgerows are protected by policy E22, and Mature Landscape Areas by policy E15 – though the former does not refer to their importance for nature conservation. This situation is inadequate. The following policy should therefore be added: "Development which may adversely affect, directly or indirectly, the landscape features listed below which are of major importance for wild fauna and flora will only be permitted if it can be shown that reasons for the development outweigh the need to retain the features and that mitigating measures can be provided for, within

the control of the developer, which would reinstate the nature conservation value of the features: hedgerows, tree belts and woodlands, semi natural grasslands, rivers and canal corridors, lake, ponds and reservoirs, green lanes and verges".

Council's Response:

10. Policy EXX – Local Biodiversity has been introduced to protect habitats identified in the Nottinghamshire Local Biodiversity Plan. This new policy, together with amendments to existing policies will ensure adequate protection of nature conservation interests.

1383/3523 English Nature East Midlands Team

11. Paragraphs 3.9, 3.11 and the reference to PPG9 in Para. 3.30 give an insight into the plan's approach to biodiversity issues. The emphasis is clearly on protection for particular sites and species, and Green Belt policies are seen as the major policy tool for securing the wider interests of the countryside. English Nature considers that this is inadequate. As PPG9 makes quite clear, nature conservation interests can occur in both the urban and rural environment, and are a significant material planning consideration wherever they are found (see paragraphs 14-16 and 24). The first sentence of Structure Plan Policy 3/6 also makes this clear. Also, despite the aim expressed in paragraph 2.10 of 'protecting and enhancing urban and rural environments', the plan is far more limited in its ambitions towards biodiversity in its stated objectives paragraph 3.61. Again, the emphasis is solely on site protection, and wider biodiversity objectives and the potential for enhancement is largely overlooked. The following policy should therefore be added: "The Borough Council will ensure that the effects of development upon nature conservation interests wherever they are found are fully taken into account when determining applications for planning permission. In considering all applications for new development, the Borough Council will take into account the extent to which proposals include measures for the protection and enhancement of the Borough's nature conservation resources. Where development is permitted which might adversely affect nature conservation interests, the Borough Council will impose planning conditions and seek to enter into Legal Agreements, which ensure that nature conservation interests are protected, any harm is minimised and where appropriate, replacement habitats are provided and subsequently managed".

Council's Response:

12. Policy EXX – Local Biodiversity has been introduced in order to secure the objectives of maintaining and enhancing local biodiversity.

1150/2330: Ramblers' Association

13. We would request that all existing footpaths on all proposed sites are maintained in a green state on their existing lines.

Council's Response:

14. The County Council deals with applications to vary or extinguish footpaths. As such the Local Plan does not need to refer to this issue. This is a detailed matter to be dealt with at application stage.

1150/3843: Ramblers Association

15. Two former railway lines should be protected. "One from Kimberley to B600 to Low Wood Road into the City, one from Kimberley Brewery to B600 to New farm Lane, Nuthall".

Council's Response:

16. Of the two former railway lines identified, the southern route is already protected throughout as a long-distance trail and greenway, under policies RC16 and RC17. The northern route includes a substantial section forming a Site of Special Scientific Interest (SSSI) which is protected under policy E16, but which would not benefit from public access. To the east of the SSSI it is expected that paths will be created along this former railway line, providing recreation opportunities in connection with the new large development area based on the proposed business park. On these sections, policy RC8 provides the protection of this former railway line as informal open space, but a long-distance route designation would not be appropriate.

Objectors Raising Similar Issues:

17. The following two objections raise similar issues and have therefore been grouped together with a joint response.

599/2707: Nottinghamshire County Council

18. A new policy should be included in the Plan, which reflects the content of the Local Biodiversity Action Plan (LBAP).

601/3023: Nottinghamshire Wildlife Trust

19. The plan has not recognised the Nottingham BAP, which has identified nature conservation priorities for the county. The NWT feels that this important document requires full recognition in the Plan and underpins other policies in the Plan.

Council's Joint Response:

20. A new policy EXX – Local Biodiversity has been included in the Revised Deposit Draft and the reasoned justification for this policy includes reference to the Nottinghamshire Local Biodiversity Action Plan.

599/2725: Nottinghamshire County Council

21. A new policy relating to local listed buildings should be included in the Plan as such buildings can be of local historic importance and interest.

Council's Response:

22. In determining all planning applications regard will be paid to the design and character of the existing building. Formal 'local' listing designations are not considered appropriate in the context of existing Listed Building legislation, and for buildings without any specific formal designation, an additional policy would have little weight.

1363/3409: Countryside Agency – East Midlands Region

23. The Agency considers that the best way forward to secure the protection and enhancement of the countryside is the adoption of the countryside character approach. This is in accordance with the advice in PPG7, and can co-exist with local landscape designations if the latter are necessary, and based on a sound methodology. Frequent references are made to the 'character' of areas. However, the term 'character' is not fully explained and the countryside approach is not fully incorporated into later chapters. For instance, landscape character protection is not an objective in Chapter 3. Policy E1 refers to the need to have 'Respect for the character of the setting of the proposed development', without explaining in the text what this means. Indeed, paragraph 3.63 implies that it really only applies where the existing quality of the built environment is generally good. The Agency is sure that this is not what is intended by the Council. The Agency considers that design is a strategic policy area, which needs to be applied to all development (as the Plan already makes clear) and should therefore be included in Chapter 2 to guide the later chapters.

Adoption of the countryside character approach would serve the Borough well. It does not benefit from any statutory landscape designations, but its countryside is nevertheless an important resource, which is under pressure from development, and therefore requires protection. Adoption of the character approach would greatly assist in protecting all areas of the countryside, not just specially designated areas, and would help to reflect the differences between and distinctiveness of the various parts of the borough. The approach is now well advanced in Nottinghamshire, and uses a sound methodology. If this approach is adopted it may do away with the need for Policy E14 although would still support Policy E15.

Inquiry Change

Council's Response:

24. All applications will be assessed with regard to the character of the area – this applies both within urban and rural areas. With regard to paragraph 3.63 the Council acknowledges that the last sentence discriminates unnecessarily between areas, and should be removed as an inquiry change**.** The Council has therefore been invited to recommend that the last sentence of para 3.63 be deleted**.** Within the rural area there are various policies – E8 – Development in the Green Belt, E9 – Visual impact of development on Green Belt, E13 – Protected Open Areas, E14 – Prominent Areas for Special Protection, and E15 – Mature Landscape Areas, that aim to ensure the quality and character of the environment is protected. Whilst the Council appreciates the work on landscape character undertaken by the Countryside Agency, it is considered that the approach is as yet not sufficiently developed to form the basis of a local plan policy. Applications will be assessed on a site-specific basis, although reference will also be made to the character assessment work already undertaken. In practice this work would be referred to in making decisions about the particular features of landscape which may be pertinent to any development proposal. It is thus a tool for landscape assessment for specific circumstances rather than on defining particular grades or qualities of a landscape in relation to that landscape's typical characteristics. As such a policy cannot be worded in a way which gives any helpful guidance on whether development may or may not be granted permission.

IC6

1388/3618: Environment Agency, Lower Trent Area

25. There is a need for the Environment Agency to retain access for the periodic maintenance and repair of rivers, watercourse and culverts, much of which is carried out with the aid of machinery. An additional policy is therefore needed.

Council's Response:

26. The Council does not consider there is any need for an additional policy to deal with work undertaken by the Environment Agency in respect of access to watercourses etc. The agency will have its own powers of access. Any local issues of access arising through development proposals can be dealt with without a specific policy. Some of the work undertaken by the Environment Agency will not require planning permission. For those proposals that do require permission, applications will be assessed on a site-specific basis.

1468/3942: English Heritage East Midlands Region

27. There should be policies relating to the demolition or change of use of listed buildings.

Council's Response:

28. Policy E5 Listed Buildings, together with paragraphs 3.77 to 3.79, explains how proposals that involve listed buildings will be treated. The text indicates that demolition of listed buildings would not normally be granted consent. The text also indicates that proposals to change the use of listed buildings which would otherwise be redundant may be appropriate in certain circumstances, although there will generally be a preference for retaining the building for the use of which it was

originally built. Any applications for demolition or changes of use will be assessed with regard to PPG15 Planning and the Historic Environment (1994). It should however be noted that demolition of a listed building does not in itself constitute development, and section 54A of the 1990 Act does not apply.

29. In addition GOEM (in objection 1381/3473) has advised that Local Plan policies should not refer exclusively to matters dealt with by legislation other than Town and Country Planning Act 1990, such as listed building consent.

601/2573: Nottinghamshire Wildlife Trust

30. Concerned that there is no policy, which refers to the value of ancient woodland and the need to protect these from development. An Ancient Woodland Inventory is held by English Nature, identifying the areas within the Borough which have been classified as such. The Nottinghamshire County Structure Plan policy 3/9 states that 'Ancient woodland will be protected from development that will result in any loss or damage'.

Council's Response:

31. Ancient Woodland has been identified in the Nature Conservation Strategy for Broxtowe borough (2001). It occurs in several locations close to the north-east boundary of the borough, from the Nuthall area round to east of Brinsley, all within Green Belt. These various areas of woodland are protected as Sites of Importance for Nature Conservation (SINCs), or as SINCs under review, which are covered by policy E17. In addition to this form of protection, tree preservation orders (tpos) in the borough are currently under review, and it may be appropriate to create a "group tpo" for ancient woodland in certain situations, providing further protection under policy E22.

601/2574: Nottinghamshire Wildlife Trust

32. It is important that the borough council identify those features, which act as corridors and stepping-stones for wildlife movement around the borough. These green corridors should indicate features to be protected for development. They will also enable prioritisation of habitat creation and enhancement work through developer obligations on new development, where appropriate. A policy on Green Corridors is required by Regulation 37 of the Conservation (Natural Habitats etc) Regulations 1994. We hope that such a policy will be worded to enable developer contributions compensating for loss of countryside to strengthen the Green Corridor network by the targeted habitat creation and enhancement work referred to above.

Council's Response:

33. The Revised Deposit Draft includes various policies that will aid wildlife movement around the borough; policies within the Environment chapter including E13, E14, E15, E16, E17, E18 and EXX, and also policies within the Recreation and Community Facilities chapter, RC16 Long Distance Trails and RC17 Greenways. Together these policies offer substantial protection for wildlife habitat and provide links out of urban areas into the countryside. It is not considered appropriate or necessary to identify additional designations for green corridors.

1152/2336: C J Thompson

34. The railway line from the B600/Common Lane Watnall to New Farm Lane Nuthall should be protected as a linear nature reserve and a legal right of way should be established along its whole length. The former 2nd World War Bomber Command Control Room at the B600/Common Lane end of the railway line should also be protected as a possible historic tourist site.

Council's Response:

35. The majority of the railway line described above is protected by a Greenway designation in the Revised Deposit Draft. The Local Plan is not an appropriate document to establish 'legal' rights of way. The Council has no information that the Command Control Room within the cutting is worthy of special protection. Mr C J Thompson should contact English Heritage direct if he considers this structure is worthy of listing.

Inspector's Conclusions

Brownfield Land Targets

1. LP Policy K3 a) already seeks priority for developing previously developed and degraded land and buildings. There is no need to duplicate this in Chapter 3. My conclusions in respect of housing allocations in Chapter 4 and in the later Chapter 10 - "Other Potential Development Sites", will result in a ratio of brownfield land to greenfield land in respect of housing allocations. I see no good purpose in a Policy that includes a pre-ordained ratio regardless of local circumstances.

Windfarms

2. Policy E23 deals with developments that incorporate all types of renewable energy techniques and I have already concluded above that there is no justification for a separate policy related to wind power technology. The Policy suggested by the BWEA is very general and gives no criteria upon which to base decisions. It is left to the decision taker to identify interests of acknowledged importance.

Local Listed Buildings

3. As I concluded earlier, I have not been made aware of any locally listed buildings in Broxtowe. It is not clear how these would be identified, what criteria would be adopted and what standing they would have with listing within SPG. No notes of any detail for inclusion in the RDDP were put forward. I fail to see why a paucity of listed buildings locally should justify listing of buildings of lessor quality. NCC's suggested policy is, if anything, more restrictive than the provisions of the Act towards listed buildings. This is clearly unsupportable. I can see no reason why planning permission should be conditional upon significant local community or environmental benefits. I see no SP basis for the proposed policy as I doubt whether SP Policy 3/G applies to other than listed buildings to judge from the supporting text. In the circumstances, it would not be appropriate to include a policy in the LP relating to locally listed buildings.

Listed Buildings

4. BBC's stance on English Heritage's point is confusing. Earlier under Policy E5 they argue for the inclusion of a criterion towards listed building consents as well development requiring planning permission, in the face of objections from GOEM. Here they cite the same GOEM objections to rebut EH. In respect of Policy E5, I support BBC in the interests of completeness and clarity. Regarding EH's request, the parts of paragraph 3.77 relating to demolition and change of use are clearly policy statements. They should also be included in Policy E5 again in the interests of completeness and clarity.

Footpaths

5. The Ramblers Association's concern is outside the remit of this LP and is for the LPA to take up problems whenever they arise. As regards the protection of the two former railway lines, the one from Kimberley to Low Wood is protected as a greenway; the other route to New Farm is in a variety of designations, mainly open, except for a small employment allocation which BBC wish to withdraw. Although, some public access may be envisaged its ecological value and its landform may be unsuited as a long distance trail.

Rights of Way

6. The former railway cutting mentioned by Mr Thompson is covered by a number of designations including SSSI, open space and an employment allocation on the site of former RAF control room, which BBC now wish to withdraw, but whose reinstatement I support. The RDDP is not the appropriate vehicle to designate legal rights of way and the government is responsible for listing buildings of historical importance.

Access to Watercourses

7. The Environment Agency, as I conclude earlier, does not need a policy in the LP to secure access for maintaining and repairing rivers, watercourse and culverts. They have their own specific powers to achieve that. The withdrawal of permitted development rights on new developments to facilitate access is a matter that can be addressed in determining relevant planning applications. A general withdrawal of such rights would be contrary to government policy advice.

Enhancement of Nature Conservation

8. The last part of Policy E17, even with the IC, is concerned with the improvement or creation of SINCs. New Policy EXX introduced by R96 applies to recognised habitats. What EN seek is a more widespread but less formal initiative to enhance nature conservation resources generally, perhaps by modest planting or water features in a new development. This seems to be a laudable objective in appropriate circumstances, but it is not specifically covered by existing policies. EN's proposed wording should form the basis of a new policy, except that the terms "wherever opportunities arise the Council will seek, as appropriate the enhancement of existing nature conservation resources and the provision of new resources" are appropriately wider than those suggested by EH in that they extend beyond consideration of planning applications to include other LA initiatives. They should also cover, without going into great detail, the concerns of EN to retain landscape features of nature conservation value and obviate the need for the other two policies suggested by EN, which cover largely similar ground. Planning conditions and/or agreements are simply some of the normal means of implementing policies and do not need spelling out here.

Local Biodiversity Action Plan

9. A new paragraph and Policy EXX introduced by R95 and R96 should have met the objections of the NCC and the NWT relating to the LBAP.

Ancient Woodlands

10. I have already dealt with NWT's concern regarding ancient woodlands, which are protected as SINCs and SINCs under review from development under Policy E17 and as important trees from development under Policy E22. They are also apparently included within MLAs and come under Policy E15. Notwithstanding SP Policy 3/9, I see no need to include ancient woodlands in an additional or separate category. PPG12 para 2.22 recommends general rather than too many specific policies. It is for the Council to consider whether Ancient Woodlands merit protection under other legislation from other activities not involving development.

Wildlife Corridors

11. The BBC has not identified wildlife corridors, except in diagrammatic form in CD61. Furthermore the need for them in addition to greenways, long distance trails and other open space is unclear. Any definition in the LP would require a good deal more evidence on their role and function and a more carefully defined extent of existing corridors in Broxtowe for various species. In the present circumstances, I do not consider it appropriate to delay adoption of the LP in order for BBC to undertake more basic surveys, notwithstanding the 1994 Regulations. It would be more appropriate for NWT to convince the Council of the need to include proposals in the next review. I have dealt with wildlife corridor issues as they arise in respect of individual sites put forward for development.

Countryside Character Approach

12. I have already dealt with some of the Countryside Agency's points earlier. PPPG7 is somewhat more reserved than the Agency on the application of the Countryside Character Approach. It makes it clear that this approach is descriptive and makes no judgement about relative worth. It emphasises that it is not an additional layer of countryside protection or designation, in the face of the Agency's claim. Rather it sets a framework against which to set finer grain information from LA's own landscape and ecological assessments. PPG7 says that it is these local assessments that may guide change and inform the preparation of local plans. Although it advises that LPAs may find the Character Approach helpful as they review local countryside designations, it gives little specific advice on this.

13. IC6 proposed the deletion of the last sentence of paragraph 3.63 to avoid the erroneous impression that Policy E1 applies only to existing areas of quality but was superseded by another IC with similar effect. Thus, I cannot see what more the Countryside Agency could reasonably expect by way of Policy to protect the existing character of landscape and townscape. Policies apply to all developments as appropriate, irrespective of the Chapter in which they appear. Policies in Chapter 2 assume no greater weight than those in others. I support the BBC's

view that inclusion of Policy E1 is more appropriate in Chapter 3. Policy K6 in Chapter 2 should provide the context and guidance needed for later policies.

14. Like BBC, I remain unconvinced about the practical value to the RDDP of the Countryside Character Approach at its current stage, even though it has been developed locally in more detail by the NCC in CD43. However, it is still unclear how the different Character Areas are intended in themselves to provide criteria for Policies. The Agency appears to promote such a Policy, but fail to indicate what it should contain. In the absence of anything specific from the Countryside Agency, it is hardly for the LPA, with its doubts, to fill in the details or to attempt to make it work. The promotion of the practical application of the Countryside Character Approach may depend upon the development of a range of useful policies and/or other initiatives.

15. I note that Nottinghamshire Landscape Guidelines (CD43) states that these are linked very closely to the Countryside Agency's Character Programme but that they are intended to supplement (not replace) the well established local landscape designations. Many of these Guidelines relate to initiatives other than those involving development whose means of implementation is unclear. Those that do involve development generally appear to call for it to respect/conserve/reflect local character in its various forms, natural and built and this appears to be largely covered by Policies K6 and E1f. The Agency make no specific proposals to amend these Policies, other than to criticise the lack of explanation of the term "character" and the location of Policy E1. The term character is not defined in the plan or in RPG8 for that matter, but it is normally taken to relate to an area's distinctive features, which may embrace land uses as well as other physical features, natural and built. It would be inappropriate and impracticable to attempt to summarise the Nottinghamshire Guidelines in this RDDP. The reference to them in para 3.57 could however be expanded to indicate that they (CD43) provide some guidelines for assessing the impact of development proposals on the natural and built character of different Countryside Areas in the County as well as promoting other suggested initiatives that do not involve development proposals.

16. I see no harm in LPAs seeking to identify and to protect from certain types of development their most valued local landscapes based upon their own local assessments and criteria, whether they are Mature Landscapes or Prominent Areas, as in Nottinghamshire's and Broxtowe's case. I see no national or regional policy guidance precluding this provided such policies are justified and up to date. I see nothing amiss in Councils to applying different policies towards development in such areas to those in the rest of their countryside, which should be protected for its own sake and which is subject to other LP policies. Although different, I do not regard this as being at the latter's expense. That view implies that either inappropriate development should be allowed in the former, simply to avoid any discrimination, or that the same policies should be applied everywhere, which is not appropriate. I see no logic in treating all local areas of countryside the same irrespective of their nature and value. The implications of the Agency's arguments and approach would appear to militate against particular policies in some of the finest landscapes such as National Parks and AONBs, unless their position is that only nationally designated areas are worthy of any special concern. However, this would overlook the majority of LPAs without such fine areas but who may wish to protect the best of what they have for their own residents many of whom are unable

to enjoy NPs and AONBs, at least on a regular basis. It is also inconsistent with policies that distinguish between Green Belts, where the aim is to preserve their open character, and none Green Belt areas, where different aims apply.

17. I note previously, the advice of PPG7. The SP already provides justification for the designation and protection of Mature Landscape Areas, which the County Council have reviewed and endorsed in recent years. It also, as I conclude earlier, provides justification for the designation and for the special protection of the Prominent Areas for Special Protection. The former have for the most part not got any less mature in the last 8 years, nor the latter any less prominent. I cannot see what further justification could be reasonably sought or provided. I also note the advice of Policy 34 of RPG8 2002 that the Countryside Character Areas can provide a useful context for development plan policies. However, it fails to indicate how this may be achieved. It is notable that it does not itself utilise these broad Character Areas, even at the regional level, in the formulation of its range of policies and its own sub areas bear no relationship to the Countryside Character Areas in Map 8. Indeed, it comments that further evaluation needs to be undertaken even at the regional scale to help define major environmental constraints. I can see no reference in RPG8 that advises against or even discourages local designations. Policy 29 seeks the protection of important aspects of the environment including landscapes and recognises local as well as regional distinctiveness and variety.

18. As the Countryside Character Approach fails to identify the highly distinctive local Prominent Areas, I cannot see how it could do away with the need for Policy E14. Furthermore Policy E15 which the Agency appears to support bears little correlation with their Countryside Character Areas.

Bramcote Hills School Campus

19. Turning to the Bramcote Hills School Campus. This is a site of about 21.2 ha containing 3 operational schools, as shown in Appendix 3 of NCC's statement. BBC in their response to the objection appears to miss the point. The provisions of PPG2 Annex C do not mean that the LPA loses any of its development control policies for Green Belts, as para C2 makes clear. Paragraph C1 gives examples of major developed sites and, though not exclusive, this includes educational establishments. I am in no doubt that a school is an educational establishment on any normal interpretation of these words. BBC may be unaware of previous designations, but this should not preclude the present objection being considered upon its merits. BBC's reliance upon paragraphs C15-C17 is misplaced. Firstly, paras C15 and C16 relate to quite separate issues. Secondly Para C17 distinguishes HFEs from other educational establishments (referred to in C1 and C2). Had it been the intention to limit major developed sites to HFEs, it was open for para C1 to do this. It chose not to and thus educational establishments must extend beyond HFEs and from the definition in C17 this must embrace schools. HFEs themselves include schools and VI form colleges funded by the FEFC. This element of schools, which is present at the Bramcote Campus, is subject to the special treatment in C17; it in no way excludes other schools or parts of schools from the general advice of C3 and C4. It is wrong to compare the Bramcote Campus with a university in terms of scale. I know of no schools or VI

form colleges that do. Annex C puts forward no size threshold, nor does BBC offer one. NCC's criteria are an interesting approach to identifying MDSs in the LP. However, by any standard a site of 21 ha with this scale of built development is clearly major and substantial. It is comparable to uses listed in C1.

20. As for the relationship of the building footprint to the total area, this is by no means untypical of civil airfields, military establishments and hospitals mentioned in C1. Furthermore, as para C15 points out, previous policy allowed institutions standing in large grounds. Major developed sites can include large open areas in between and around groups of buildings, whether they are attractive and prominent or not. BBC seem to be unaware that the policy criteria in C2 confines infilling to the developed part of the site, implying the existence of undeveloped parts, and that C6 envisages a situation where it may be more appropriate to site new development closer to existing development, implying development on undeveloped parts, rather than re-development of existing buildings. In the circumstances of the policy advice in C2 and C3, it matters little what proportion of the campus is open land, since this will be protected by Green Belt policies.

21. The advice in the first sentence of paragraph C3 is illustrative not conditional. In any case, BBC's point would apply to other educational establishments and these are specifically mentioned in para C1. Furthermore, future infilling and/or re-development may be important to the future success of the Bramcote Schools. The scope for further infilling at Bramcote Campus may be limited but some exists and this accords with the criteria in para C3. BBC is correct to assume that development that is not inappropriate would not necessarily be permitted; it would be judged against Green Belt policies, Annex C criteria and other relevant policies. The Bramcote Schools may be unlikely to close within the plan period but this does not preclude redevelopment of existing buildings for school rather than other uses, which may be important given their age. It matters less who makes the decisions on future school development than that these are soundly based on appropriate policies. Redevelopment for other purposes may not be on the horizon, but this does not prevent NCC from seeking a policy context, particularly for a partial scheme. BBC's attitude begs the question of what relevant policies and guidance would be applied in this event. To apply the criteria of Annex C but to resist designation appears perverse. Annex C makes it quite clear that its provisions apply only to designated major developed sites, HFEs apart. I see no way in which the provisions of Annex C, properly applied, could prejudice consideration of the site in future plan reviews. On the other hand, I can see more prejudice arising from invoking exceptional circumstances, whatever this may mean, which BBC seem to prefer and which would be required in the case of inappropriate development in the Green Belt, whether the criteria of Annex C were used informally as a guide.

22. Annex C may suggest that it is for the LPA to assess whether MDS designation is warranted. However, in making this point BBC appears to have forgotten the status of objectors and the role of this inquiry.

23. Nor does the policy advice in paragraphs C3 to C4 of PPG2 imply any increased pressure upon the open areas of the campus. Indeed given the specific nature of

this advice, compared to BBC's Policy E8, it should help to maintain the compactness of existing building groups and protect the attractive and prominent open spaces within the campus from development, even in exceptional circumstances, despite its lack of designation under Policy E14.

24. Designation in the LP means that, provided any development proposal meets the criteria in paragraphs C3 or C4, it would not be regarded as inappropriate development. The BBC and NCC would then be free to determine the proposals against the policies in the LP and the criteria of C3 and C4 without the need to refer some of them to the GOEM, with its attendant delays. I can see no sound reason why a LPA should be happy to refer matters to the GOEM when designation as a MDS could avoid this. As the GOEM letter of 7-10-1999 advises, one of the factors in deciding which applications to refer is whether inappropriate development is involved. The judgement, in the South Bucks case ruled that the provisions of Annex C should not be applied unless a major developed site is specifically identified in a LP. BBC's offer to apply Annex C provisions to existing development in the Green Belt flies in the face of this ruling, which they put in. Their approach to accept major developed sites as they emerge is unclear and uncertain and is contrary to PPG12. They offer no criteria upon which to judge such decisions and their interpretation of PPG2 in their evidence might give little comfort outside the Council. Their fear of redevelopment for other than school purposes appears to influence their thinking but as they acknowledge such proposals are most remote for the foreseeable future. If they ever materialised, C4 should ensure no greater impact upon the openness of the Green Belt. It is unclear what more BBC could realistically wish for.

25. Indeed, as it stands the RDDP itself in Policy E8 e) regards as appropriate development limited infilling or redevelopment of existing developed sites, whether major or minor. This is a much wider definition than Annex C and as they are not identified on the PM, they could include single buildings in the Green Belt as well as the Bramcote Hills campus. The rest of E8 e) is flawed since it is difficult to visualise any infilling development that does not result in a more intensive development and additional building area. All these limitations dawned on BBC during the inquiry and as a result they put forward IC112 which restricts limited infilling and redevelopment to major developed sites. However, they did not, contrary to the advice of PPG2 seek to designate such sites. It thus leaves it open for future applicants to argue separately that IC112 applies to their site. This approach lacks the clarity and certainty advised by PPG12. It fails to comply with advice of PPG2 that only major developed sites specifically identified in a LP qualify as not inappropriate development.

26. The alternative approach, also implied by the BBC's response, is to treat proposals at the Bramcote Hills complex as exceptions to Policy. I have seen one example of this approach, including some referred to GOEM, in the grounds of Eastwood Hall, which has been in the approved Green Belt. Successive decisions have seen the spread of modern buildings, car parking and roadways over an extensive area, some no doubt re-development, some perhaps infilling, but others clearly extensions of the built footprint. This site now has the appearance and character of a large development complex, which is now so alien to the openness of the Green Belt that I support its exclusion from the Green Belt in the RDDP along with adjoining land to the south.

27. This approach lacks clarity and openness. Apart from the resulting situation on the ground, it can damage the integrity of the Green Belt concept in the public's eyes by allowing inappropriate development in Green Belts notwithstanding any exceptional reasons. It could be held as a precedent for similar treatment on other sites elsewhere and LPAs need to be careful to deal with proposals on a consistent basis. BBC's suggested lack of opposition to NCC's proposals is unlikely to give much comfort to third parties or even perhaps to NCC.

28. In all the circumstances, it is preferable to designate the Bramcote Hills Campus as a major developed site in the Green Belt subject to Policy E8, which I deal with earlier. I leave it to the BBC's discretion whether to define the boundaries of the present extent of development or simply to define the extent of the campus as shown in NCC's statement. The criteria in C3 and C4 should be specific enough to control development in the latter case.

Recommendation

29. I recommend that the RDDP be modified by designating the Bramcote Hills campus as a major developed site in the Green Belt; by including an additional policy; Other Nature Conservation Resources : "wherever opportunities arise the Council will seek, as appropriate, the enhancement of existing nature conservation resources and the provision of new resources". I recommend that the second and third sentences of paragraph 3.77 be added to Policy E5. I recommend that the reference to Nottinghamshire Landscape Guidelines in para 3.57 of the RDDP include the sentence: "These provide some guidance on assessing the impact of development proposals on the natural and built character of different Countryside Areas in the County as well as other suggested initiatives that do not involve development proposals."

30. Otherwise, I recommend that no modification be made to the RDDP in respect of the above objections.

Objections to Omissions of paragraphs

EX1 New Environment Paragraphs

598/2656: CPRE – Broxtowe Group

1. Ref. Paragraphs 3.60-3.61: Whilst we support the aims and objectives listed under these paragraphs we think that they could be strengthened by an addition of a policy statement.

Council's Response:

2. A key objective statement is provided in the Revised Deposit Draft at paragraph 3.1. The Council considers that the aims and objectives are strong and help justify the individual policies within the Local Plan.

598/2657: CPRE – Broxtowe Group

3. Ref. 3.56-3.59. Two additional paragraphs are required under these headings with reference to Broxtowe's Local Agenda 21 Strategy, and Broxtowe's Nature Conservation Strategy.

Council's Response:

4. Reference to Broxtowe's Local Agenda 21 strategy, and Broxtowe's Nature Conservation strategy, have been inserted into the Introduction Chapter 1, under the heading Broxtowe Borough Council strategies. The Council's Local Agenda 21 initiative is also referred to in paragraph 3.2. It is not considered necessary to repeat references under 'other policy background'.

1388/3629: Environment Agency

5. The Agency wishes to strongly promote the use of Sustainable Urban Drainage Systems as an effective means of managing surface water run-off. Encouragement will be given to the use of infiltration ditches, ponds, attenuation lagoons and reed beds, which can in themselves form part of the attractive and natural landscaping of a development. It would be of assistance to the Environment Agency if a statement setting out the Agency's approach could be included in the Broxtowe Borough Local Plan.

Council's Response:

6. An additional sentence referring to sustainable urban drainage has been inserted into paragraph 3.142 of the Revised Deposit Draft.

1468/3939: English Heritage – East Midlands Region

7. Some background on the nature etc, of Listed Buildings in the borough would be useful.

Council's Response:

8. The Local Plan is not intended to be a guide to Listed buildings in the Borough. It sets out policies as to how proposals affecting listed buildings will be dealt with. Further more the nature of Listed Buildings within Broxtowe Borough is so varied that the Council does not feel it would be helpful to try to provide general background within the Local Plan document. All listed buildings in the Borough are identified within Appendix 6.

1468/3920: English Heritage – East Midlands Region

9. The introduction could provide a short overview of the nature and character of the historic environment. This might be elaborated in the text relating to the specific policies e.g. in paragraphs 3.70 and 3.77.

Council's Response:

10. See above. Also note that Conservation Area statements are available that gives a general description of the nature and character of the area.

1468/3922: English Heritage – East Midlands Region

11. Given the nature of the borough, there is nothing in this chapter about the importance of industrial archaeology, particularly in the context of the textile and mining industries.

Council's Response:

12. In the Revised Deposit Draft of the Local Plan a number of additional references are made to industrial archaeology and the history of the borough. Paragraph 3.13 refers to the opencast history of the area; paragraph 3.XX refers to PPG16 'Archaeology and Planning' (1990). The Council considers that adequate reference and policy framework is now provided within the Local Plan.

Inspector's Conclusions

1. I have already considered the CPRE's proposal for a policy statement supporting paras 3.60 to 3.61 and can see no useful purpose in one. These aims and objectives stand well on their own without any amplification. Their concerns are covered by other Policies that I support.

2. R6 introduced the Broxtowe Local Agenda 21 strategy into Chapter 1 and this is also referred to in paragraph 3.2. I see no need to repeat this in paragraphs 3.56 to 3.59. The RDDP should be read as a whole as CD118 now seeks to stress.

3. The RDDP's role is to put forward Policies and Proposals for land use development clearly and concisely. It is not an appropriate vehicle to spread publicity of the Environment Agency's aims. Nevertheless, R114 introduced the issue of sustainable drainage systems to paragraph 3.142 and should have gone some way to meeting the EA's objection to the FDDP.

4. Again, the RDDP is not intended as a gazetteer to listed buildings in the area; other publications would be more suitable. However, all listed building are listed in Appendix 6. It is unclear what further background English Heritage would wish.

5. It is not clear what EH seek with a short overview of the nature and character of the historic environment or what purpose it would serve, except to extend an already lengthy document. However, Appendix 5 lists current conservation areas in addition to Appendix 6, which includes listed buildings.

6. R56 relates mainly to the environmental impact of opencast coal, rather than its industrial heritage. BBC have made a considerable investment in the Borough's heritage, particularly in respect of features associated with DH Lawrence, the author. Some former industrial buildings are listed and are documented in Appendix 6. In the absence of any specific suggestions from EH for additional statements, I am unable to make any appropriate recommendations for modifications to the RDDP.

Recommendation

7. I recommend that no modification be made to the RDDP in respect of these objections.