



Rugby Borough Council

Matter 11

Issue 11a: Biodiversity and Geodiversity
(Policies NE1 and NE2)

Issue 11b: Blue and Green Infrastructure
(Policy NE3)

Issue 11c: Landscape Protection and
Enhancement (Policy NE4)

Issue 11a: Biodiversity and Geodiversity (Policies NE1 and NE2)

1. Is Policy NE1 effective and consistent with national policy, with particular regard to:

a. The protection of ancient woodland and aged or veteran trees?

1.1 Policy NE1 is designed to protect designated biodiversity and geodiversity assets.

The level of protection and mitigation would be proportionate to the status of the habitat or species and its importance both individually and as part of a wider network.

1.2 The policy identifies that development proposals in the proximity of ancient woodland must have regard to the latest standing advice from Natural England.

This is considered effective as it ensures the latest evidence is utilised. It is noted that this is in a state of flux at the moment, and therefore, a specific minimum buffer is not identified.

1.3 This is considered consistent with national policy. NPPF Paragraph 113 states that protection is commensurate with the status of the asset, which the policy is considered to achieve. This approach is also consistent with NPPF Paragraph 118. Should the Inspector consider that it is necessary to resemble the NPPF wording more closely, a proposed modification is suggested.

b. International and European nature conservation designations?

1.4 Rugby Borough Council is part of the Habitat Biodiversity Audit (HBA) of Warwickshire, Coventry and Solihull. This is a partnership project between 8 Local Authorities across the sub-region and Warwickshire Wildlife Trust. The HBA serves to review potential habitats across the Borough on an ongoing basis. LP41 the Habitat and Biodiversity Audit June 2017 contains a record of the sites surveyed, although this is an ongoing process so will be subject to future updates.

1.5 All sites pertinent to the Local Plan have been subject to a full assessment. All sites across the Borough will continue to be assessed on a rolling basis throughout the plan period. This approach is considered consistent with NPPF Paragraph 118.

1.6 Should the Inspector consider it necessary for the policy to better reflect the NPPF, the following modification is suggested:

“The Council will protect designated areas and species of national and local importance for biodiversity and geodiversity as set out below:

Sites of National Importance

Development likely to result in a significant effect, either alone or in combination with other developments, that destroys or adversely affects a site of Special Scientific Interest (SSSIs) will be refused planning permission unless:

- **it can be adequately mitigated, or as a last resort, compensated; and**
- **it can be demonstrated that the benefits of the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity.**

Where development is permitted that has an adverse impact upon a SSSI, either directly or indirectly or in combination, measures to enhance the site will be required.

~~Development that is likely to result in a significant effect, either alone or in combination, on an International or European nature conservation designation, or a site proposed for such designation, will need to satisfy the requirements of the Habitat Regulations.~~

Sites of Local Importance

Development likely to result in the loss, deterioration, degradation or harm to habitats or species of local importance to biodiversity, geological or geomorphological conservation interests, either directly or indirectly, will not be permitted for Local Nature Reserves (LNRs); Local Wildlife Sites (LWS), Local Geological Sites (LGS), European and UK protected species, or Biodiversity Action Plan habitats unless:

- the need for, and benefits of, the development in the proposed location outweigh the adverse effect on the relevant biodiversity interest;
- it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interest; and
- measures can be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for the adverse effects likely to result from development.

Development proposals impacting on local wildlife sites will be expected to assess the site against the ‘Green Book’¹ criteria to determine the status of the site and to ascertain whether the development clearly outweighs the impacts on the site. The level of protection and mitigation should be proportionate to the status of the habitat or species and its importance individually and as part of a wider network.

Ancient Woodland

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The Green Book: Guidance for the Selection of Local Wildlife Sites in Warwickshire, Coventry and Solihull (2015) Local Wildlife Sites Project: Habitat Biodiversity Audit for Warwickshire.

Planning permission will be refused for development resulting in the loss or deterioration of ancient woodland, and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweighs the loss.

All development proposals in the proximity of ancient woodland shall incorporate appropriate buffers **in line with** having regard to Natural England's Standing Advice. ~~Development proposals should seek to avoid adverse effects on SSSIs. Development adversely affecting a SSSI, either directly or indirectly, will only be permitted in exceptional circumstances where the benefits of development clearly outweigh the likely impacts on the site and any broader impacts on the national networks of SSSIs.~~

~~Development adversely affecting a Local Site (LNR, LWS or LGS) will only be permitted either where it can be demonstrated that the benefits of the development clearly outweigh the impacts on the site.~~

~~. As a starting principle, development must be kept as far away as possible from ancient woodland. The necessary width of any buffer zone will depend upon local circumstances and the type of development. Buffer zones should be retained in perpetuity and allowed to develop into semi-natural habitats. Section 6 of the Standing Advice includes guidance on mitigation measures, including buffers.~~

All proposals likely to impact on the sites noted above will **require** subject to an Ecological Assessment. The Ecological Assessment shall ~~should~~ include due consideration of the importance of the natural asset, the nature of the measures proposed (including plans for long term management) and the extent to which they avoid and reduce the impact of the development.

2. Is Policy NE2 consistent with national policy, particularly in respect of its requirement for development to compensate for 'negative impact' on biodiversity where this cannot be avoided or mitigated, with reference to paragraph 118 of the NPPF?

2.1 Policy NE2 is considered consistent with NPPF Paragraph 118.

2.2 The function of the policy is to protect, enhance or restore habitat biodiversity. This will be achieved by following an approach consistent with NPPF Paragraph 118 whereby any negative impacts on biodiversity will be mitigated, compensated or developments will be refused.

2.3 Compensation is identified after all options for mitigation has been exhausted. With regards to compensation for an identified negative impact, the supporting text details how compensation would be defined with reference to LP39, the Warwickshire, Coventry and Solihull Green Infrastructure Strategy. Specific details would be agreed in line with statutory consultees. It is not considered that further details are required within the policy.

Issue 11b: Blue and Green Infrastructure (Policy NE3)

1. Is Policy NE3 effective and consistent with national policy in respect of its approach towards the creation of a comprehensive green infrastructure network in the borough?

3.1 Policy NE3 is considered effective and consistent with national policy, namely NPPF Paragraph 114, as the policy achieves a strategic approach to Green Infrastructure.

3.2 The purpose of the policy is to protect the existing GI network but to also enhance it both in terms of function and physical extent. The policy is considered to be an effective mechanism to achieve this.

3.3 The evidence base documents- LP 39 Sub-regional Green Infrastructure Study 2010 and LP02.19 Green Infrastructure Proposals Map are considered to plan positively for green infrastructure, in line with NPPF Paragraph 114.

3.4 The green infrastructure proposals map is considered to meet the requirements of NPPF Paragraph 114 by using the evidence base to plan positively for the creation, protection, enhancement of the green infrastructure network. The map identifies opportunity areas, including areas which are covered by strategic site allocations.

3.5 This is considered to balance ambitions for the future whilst ensuring existing assets are maintained. LP39 identifies opportunities for improvement in the west of the Borough. Therefore it is considered that a strategic approach is achieved through NE3 as the GI network stretches across the Borough and links up with neighbouring local authorities, in line with NPPF Paragraph 114.

3.6 NE3 is considered to plan positively for green infrastructure. Where there are new multi-functional linkages between existing GI assets and development sites a management plan will be required. This is considered necessary to safeguard the policies strategic approach to GI.

Issue 11c: Landscape Protection and Enhancement (Policy NE4)

1. Is Policy NE4 effective and consistent with national policy in respect of the protection of significant landscape features and landscape character in the borough? In particular, should the Rainsbrook Valley be recognised in the policy as a key local landscape to be protected from development?

- 4.1 The purpose of the policy is to ensure significant landscape features are protected from harm and that landscape considerations form a key component in the consideration of new development. It is considered that the policy is effective as it sets a clear framework to be satisfied to ensure new development positively contributes to landscape character.
- 4.2 The policy will be implemented through the development management process where planning applications will be required to submit a landscape analysis and management plan in appropriate cases. The policy details how this supporting information must be fully compliant with the established evidence base. The details provided within the policy are considered to constitute a safeguard against allowing development which would adversely affect landscape unless material considerations indicate otherwise.
- 4.3 The policy is considered to be effective as worded, and since there are no designated valued landscapes within Rugby, the policy is considered reasonable given the existing landscape evidence.
- 4.4 Turning specifically to the concept of 'valued landscapes'; NPPF paragraph 109 affords protection to "...protecting and enhancing valued landscapes".
- 4.5 The Rainsbrook Valley Sensitivity Study 2017 (LP36) was produced in relation to an appeal at Barby Lane, Hillmorton, Warwickshire; the details of which have previously been submitted to the Inspector (Matter 3b 000 Appendix D).
- 4.6 An evaluation of the sensitivity study was made by Mr Mark Dakeyne in the appeal, as well as the 2006 Landscape Assessment Condition and Sensitivity Study (LP34). Mr Dakeyne states that:

Paragraph 12:

"I agree with the landscape character studies and the WCC assessment that the slopes of the escarpment are highly visible, a strong landscape feature, of high sensitivity and of high landscape value. In this regard I give most weight to the 2006 Landscape Study which was carried out in the absence of any development proposals and therefore can be seen as more objective."

Mr Dakeyne placed more value on the 2006 landscape study, and went on to give a view on whether or not the Rainsbrook Valley constituted a 'valued landscape':

Paragraph 19:

“The site is not within a designated landscape such as a National Park or an Area of Outstanding Natural Beauty, the landscape has not been highlighted in any development plan or supplementary planning document as being valued. Part of the site forms a component to a wider landscape (the escarpment) which has high sensitivity to change and demonstrable physical attributes. The site clearly has some value for local people, particularly those that use the public footpath that rises up the escarpment and crosses the land. But such factors do not necessarily equate to a valued landscape. In my judgement I would not describe the site as part of it lying within a valued landscape.”

- 4.7 As a result of the above the Council consider that the Rainsbrook Valley does not constitute a valued landscape within the meaning of paragraph 109 of the NPPF. As a result, therefore, the policy is considered to be effective as currently worded.
- 4.8 It is acknowledged that there are a variety of landscape studies that have been undertaken, and in particular LP 34, 35 and 36 have been included within the evidence base for the Local Plan.
- 4.9 Collectively, the studies represent a library of evidence which, when considered together, assist in the determination of planning applications. Updates to the library of existing studies are expected to be undertaken periodically. It would not appear reasonable to single out one study in particular and include it in the policy as this would risk the policy rapidly becoming out of date. Had the Rainsbrook Valley been determined to be a valued landscape, it is feasible that such a change would be justified. However, taking into account Mr Dakeyne’s detailed consideration of the planning application upon which the study was initiated, and his conclusions, the local planning authority consider that it is sufficient for it to be referenced within the supporting text of paragraph 9.15, rather than be specifically referred to in the policy. This will ensure that should any updates to landscape assessments are undertaken, they can be considered with due weight at the time of any subsequent planning applications, rather than elevating that study above all others within the examination library disproportionately.