

Matter 11 – The Natural Environment

Issue 3 – Biodiversity and The Chilterns National Landscape – Policies SP10 and NEB5 – NEB12

Q1 Are Policies SP10 and NEB5 – NEB12 positively prepared, justified, effective and consistent with national planning policy?

- 1.1 Yes, it is considered that Policies SP10 and NEB5 – NEB12 are overall positively prepared, justified, effective and consistent with national planning policy.
- 1.2 Policy SP10 sets out the strategic objectives for the natural environment, biodiversity and green and blue infrastructure to be achieved through the application of the policies of the Local Plan. It is considered to be justified and effective in this regard. It is also consistent with national planning policy as set out in paragraph 180 (clauses a, b and d) of the 2023 NPPF:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

(a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

(b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

(d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

- 1.3 Policy NEB5 applies paragraph 180a of the 2023 NPPF in a local context. This is noted in the Sustainability Appraisal of the draft St Albans Local Plan (LPCD 03.01) which says in paragraphs 9.7.3 and 9.5.4:

9.7.3 There is a well-targeted / locally specific approach to green and blue infrastructure designations set out across the following policies: NEB2 (Local Green Spaces); NEB3 (Non-Designated Local Green Space); NEB4 (Significant Publicly Accessible Green Areas); and NEB5 (Blue Infrastructure).

9.5.4 Policy NEB8 (Managing Flood Risk) – is the primary policy of note. It has been updated to reflect comments received from the Environment Agency (ref. 426), but it remains the case that there is little if any local specificity. It is noted, however, that there is also tailored policy on Blue Infrastructure (NEB5) and also that the policy on Major Transport Schemes (TRA2) references flood risk (this can be a key issue, with roads often focused along river corridors). The ISA Report stated: “Strategic

flood storage aimed at reducing downstream flood risk is feasibly something to consider further (the EA may wish to comment through the consultation).” However, it is not clear that there are any significant opportunities.

- 1.4 Reflecting a matter raised by the Environment Agency a main modification is proposed for Policy NEB5 to ensure the policy is effective at reducing the risk of flooding to new development and does not hinder the management of main rivers. This is set out in SADC/ED85A and SADC/ED85C.
- 1.5 Policy NEB6 applies paragraph 180d of the 2023 NPPF in a local context.
- 1.6 Policy NEB7 applies paragraph 180d of the 2023 NPPF in a local context.
- 1.7 Policy NEB8 applies paragraphs 165, 173 and 175 of the 2023 NPPF in a local context.

165. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

173 When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment 59 . Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

(a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

(b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

(c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

(d) any residual risk can be safely managed; and

(e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

175 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

(a) take account of advice from the lead local flood authority;

(b) have appropriate proposed minimum operational standards;

(c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and

(d) where possible, provide multifunctional benefits.

- 1.8 Reflecting a matter raised by Thames Water Utilities Ltd a main modification is proposed for Policy NEB8 to ensure the policy is effective with regard to the provision of Sustainable Urban Drainage Systems. This is set out in SADC/ED85A and SADC/ED85C.
- 1.9 Policy NEB9 applies paragraph 180b of the 2023 NPPF in a local context.
- 1.10 Policy NEB10 applies paragraphs 180a and 180b of the 2023 NPPF in a local context.
- 1.11 Policy NEB11 applies paragraph 180a of the 2023 NPPF in a local context. More details on Policy NEB11 are set out under Q4 below.
- 1.12 Policy NEB12 applies paragraph 102 of the 2023 NPPF in a local context. Paragraph 102 of the 2023 NPPF says:

Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

- 1.13 The St Albans Open Space Study (LCRT 01.01) says in section 11.3:

11.3: Quantity

Quantity standards can be used to identify areas of shortfalls and help with determining requirements for future developments. Setting quantity standards The setting and application of quantity standards is necessary to determine shortfalls in provision and to ensure new developments contribute to the provision of open space across the area.

Shortfalls in quality and accessibility standards are identified across the District for different types of open space (as set out in Parts 11.1 and 11.2). Consequently, the Council should seek to ensure new developments contribute to the overall provision of open space.

The current provision levels are used as a basis to inform and identify potential shortfalls in existing provision. These can also be used to help determine future requirements as part of new developments.

Table 11.3.1: Summary of current provision levels

Typology	Quantity level (Hectares per 1,000 population)
Parks & gardens	0.71
Natural & semi-natural greenspace	3.46
Amenity greenspace	1.53
Provision for children & young people	0.06
Allotment	0.28

Current provision levels are used to inform quantity as opposed to benchmarks such as those suggested by FIT. The national benchmark quantity standards are not deemed as appropriate for use as they do not take into consideration the local circumstances, distribution, and historical trends of the area.

An approach using locally derived quantity standards ensures more reflective standards are set as they are based on and take consideration to current local provision levels and views.

The exception may be in instances such as the Hemel Garden Community proposal. As a new garden community, with its green network being one of its core pillars, the aspiration should be to exceed local minimum provision standards. Furthermore, as part of Dacorum Open Space Study (2019), the Hemel Hempstead Analysis Area is shown to have a shortfall in natural and semi-natural greenspace.

The current provision levels can be used to help identify where areas may have a shortfall. Table 11.3.2 shows the position for each sub-area as to whether it is sufficient or identified as having a shortfall for each type of open space.

Table 11.3.2: Current provision shortfalls by analysis area (hectares per 1,000 population)

Analysis area	Parks and gardens		Natural & Semi-natural		Amenity greenspace		Allotments		Play provision	
	0.71		3.46		1.53		0.28		0.06	
	Current provision	+ / -	Current provision	+ / -	Current provision	+ / -	Current provision	+ / -	Current provision	+ / -
Bricket Wood & How Wood	1.14	+0.43	6.25	+2.79	2.10	+0.57	0.14	-0.14	0.14	+0.08
Colney Heath	-	-0.71	11.81	+8.35	0.53	-1.00	-	-0.28	0.04	-0.02
Harpenden	0.64	-0.07	1.44	-2.02	1.37	-0.16	0.39	+0.11	0.04	-0.02
London Colney	0.01	-0.70	3.74	-0.28	1.83	+0.30	0.35	+0.07	0.09	+0.03
Redbourn	0.05	-0.66	4.40	-0.94	6.84	+5.31	0.30	+0.02	0.04	-0.02
St Albans	0.88	+0.17	0.95	-2.51	1.10	-0.43	0.24	-0.04	0.04	-0.02
Wheathampstead	0.02	-0.69	19.09	+15.63	1.84	+0.31	0.54	+0.26	0.15	+0.09

All analysis areas are observed as having shortfalls in some form of open space.

1.14 The standards and requirements set out in Policy NEB12 are either based on:

- existing levels of provision (Table 10.1 Quality Standards) taken from the St Albans Open Space Study (LCRT 01.01);
- Sport England standards (Playing pitch provision in Table 10.1); or
- National best practice guidance, Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard (Children's Play Facilities and Accessibility Standards in Tables 10.2 and 10.3).

The standards and requirements are, therefore, justified.

- 1.15 For clarity a main modification is proposed for Policy NEB12. This is set out in SADC/ED85A and SADC/ED85C.

Q2 What is the justification for stating that a net gain of higher than 10% is strongly encouraged in Policy NEB6? Could this lead to confusion as to what is required from development proposals?

What is the justification for stating that a net gain of higher than 10% is strongly encouraged in Policy NEB6?

- 2.1 SADC encourages developments to provide more than the national minimum level of biodiversity net gain. As set out in paragraph 10.29 of the draft Local Plan:

A number of significant landowners within the District have set out that they intend to deliver significantly above the minimum 10% BNG on allocated sites set out in this Plan. This higher level of BNG aspiration reflects their corporate or local Sustainability ambitions. The Council strongly supports delivery of higher than 10% BNG on site where possible.

- 2.2 However, the policy requirement remains in line with National Planning Policy Guidance for a 10% Biodiversity Net Gain.

- 2.3 It is noted in the Sustainability Appraisal of the draft St Albans Local Plan (LPCD 03.01) which says in paragraph 9.4.3:

Policy NEB6 (Biodiversity) – whilst the majority of the policy reflects limited local specificity (in the context of likely forthcoming National Development Management Policies), a key decision is taken to support the national minimum standard of 10% biodiversity net gain, as opposed to seeking a higher standard. A number of recently adopted local plans set a requirement for 20%, for example the Guildford Local Plan Part 2; however, there is increasingly scrutiny of the potential drawbacks for development viability and delivery more generally, recognising the potential for administrative burden, particularly if there is a lack of readily available local biodiversity credits (also accounting for habitat types) that can be purchased by developers where it is the case that the requisite BNG cannot be achieved onsite. In turn, there is increasingly an emphasis on undertaking detailed evidence work as part of plan-making in order to justify 20% BNG, which takes time and resources. For example, evidence studies have recently been published alongside the Regulation

19 local plans for Uttlesford and Surrey Heath. Ultimately, whilst 20% BNG is supported from a biodiversity perspective, and there could also be wider benefits in terms of recreational opportunity and other 'ecosystem services', there can be risks and drawbacks for development viability and delivery, particularly in the absence of detailed evidence base work. There could be potential to revisit this matter guided by the Hertfordshire Local Nature Recovery Strategy.

Could this lead to confusion as to what is required from development proposals?

- 2.4 It is not considered that the Policy wording could lead to confusion as to what is required from development proposals. As set out above, the policy requirement remains in line with National Planning Policy Guidance with a minimum of 10% Biodiversity Net Gain. The policy merely states that SADC welcomes and encourages a greater level of Biodiversity Net Gain. Any application that provided 10% Biodiversity Net Gain would be in accordance with the policy.

Q3 Does Policy NEB7 provide sufficient flexibility to account for site specific circumstances?

- 3.1 Yes, it is considered that Policy NEB7 provides sufficient flexibility to account for site specific circumstances.
- 3.2 The policy consists of six clauses. Each provides sufficient flexibility as follows:
- 3.3 Clause a) says:
- a) [The Council requires that] Development proposals have regard to the biodiversity already present within the site;*
- 3.4 This can be applied to all developments in all circumstances. For very small scale development e.g. small residential front extensions there would in nearly all instances be no biodiversity on the area of extension and so there would be no implications, but the matter would need to have been at least considered.
- 3.5 Clause b) says:
- b) [The Council requires that] Development proposals identify opportunities to maximise the provision for biodiversity on the design of new buildings in line with national and local nature conservation priorities;*
- 3.6 This can be applied to all developments in all circumstances.
- 3.7 Clause c)(i) says:

c) *i) [The Council requires that] All new housing developments provide at least one swift brick per dwelling, on average for the development, installed in groups in optimal locations.*

3.8 Swift bricks can be installed in all dwellings. The RSPB website¹ says (referring to swift boxes) describes a suitable spot as “on the wall of a building, tightly under the eaves (where the roof hangs over the walls). It should be at least 5m (16 feet) above the ground and easy for Swifts to fly into. ... The box shouldn't be in direct sunlight, so place it on a wall that faces north, east or somewhere in between.”

3.9 The only type of house that is likely to be unsuited to a swift brick would be a new single-storey dwelling, which are very rarely brought forward in the District. When considered alongside other policies of the Plan, in particular those on minimum density, it is considered likely that almost all applications for new dwellings would be suited for the installation of swift bricks.

3.10 Clause c)(ii) says:

c) *ii) [The Council requires that] All new housing developments provide at least one integrated bat box and one integrated insect box per dwelling.*

3.11 As for swift bricks it is unlikely that a new dwelling would be wholly unsuited to integrated bat box or an integrated insect box.

3.12 Clause d) says:

d) *[The Council requires that] All new proposals for suitable non-residential buildings must include groups of integrated swift bricks in numbers appropriate to the scale of development;*

3.13 The wording of clause d) is sufficiently flexible as it refers to being applicable to suitable non-residential buildings.

3.14 Clause e) says:

e) *[The Council requires that] New wildlife habitats and features, including predominantly native trees, shrubs, or fruit trees as community orchards where space allows, and durable tree mounted nest boxes, hibernacula, bat boxes and insect boxes, will be incorporated into bee-friendly landscaping schemes and the general layout of the built environment. All fencing should be hedgehog friendly and hedgehog highways should be incorporated throughout the development to a proportionate degree.*

3.15 This can be applied to all developments in all circumstances as it only requires that new wildlife habitats and features be incorporated into bee-friendly landscaping

¹ <https://www.rspb.org.uk/helping-nature/what-you-can-do/activities/create-a-high-home-for-swifts>

schemes and the general layout of the built environment. It also requires that fencing be hedgehog friendly, which can be applied to all developments.

Q4 What is the justification for Policy NEB11, especially criterion b)?

- 4.1 Paragraph 10.41 of the draft Local Plan sets out the justification for Policy NEB11:

The Chilterns National Landscape (NL) (formerly referred to as an Area of Outstanding Natural Beauty) lies to the north of St Albans District. The statutory purpose of the NL is to conserve and enhance the area's natural beauty and the Council has a statutory duty to 'seek to further the purpose of conserving and enhancing the natural beauty of the area'. Whilst this Plan does not allocate sites within the NL, some sites do lie close to the designated landscape and so have the potential to impact upon the NL's setting.

- 4.2 The policy is justified due to the proximity of some parts of the district to the boundary of the National Landscape area and the potential of some sites in the Plan to impact upon the National Landscape's setting.
- 4.3 Criterion b of Policy NEB11 was originally drafted in light of the Chilterns National Landscape boundary extension project to accommodate any extension of the National Landscape into the district. As set out in ED80A (*SADC position on the decision by Natural England to stop work on the Chilterns National Landscape boundary extension project*), work is no longer taking place on this project. As such, criterion b of Policy NEB11 is no longer justified and a main modification is proposed. This is set out in SADC/ED85A and SADC/ED85C.
- 4.4 An additional main modification has been proposed to criterion a) to qualify that it is only significant negative impacts or harm that are not acceptable. As drafted a proposal that had a significant positive impact would not be in accord with the policy. This proposed main modification is set out in SADC/ED85A and SADC/ED85C.