

Three Rivers District Council Development Management Policies

Statement in Response to Main Issue: Green Environment and Recreation

1.0 Whether the policies on biodiversity and landscape character and open space, sport and recreation facilities are soundly based and properly justified; clear in their intentions; adequately reflect national policy; are likely to be effective; and are capable of being effectively monitored.

1.1 QUESTION GE1

1.2 Are the tests in Policy DM6 of adverse impact on protected sites and species consistent with relevant guidance in the NPPF?

1.3 Yes.

1.4 The tests in Policy DM6 are consistent with the relevant guidance in the NPPF:

- Paragraph 114 of the NPPF which states that Local Planning Authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.
- Paragraph 116 which states that planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.
- Paragraph 117 of the NPPF which sets out the ways in which planning policies should minimise impacts on biodiversity and geodiversity.

2.0 QUESTION GE2

2.1 Is the requirement under the Policy that there should be no net loss of biodiversity to the District reasonable, measurable and within the scope of applicants for individual development proposals?

2.2 Part b) of Policy DM6 states that development should result in no net loss of biodiversity value across the District as a whole rather than no net loss of biodiversity. This is in accordance with the NPPF that states that Local Authorities should minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. It would also be in accordance with strategic objective 9 of the Core Strategy *'To conserve and enhance the countryside and the diversity of landscapes, wildlife and habitats in the District within a coherent network of Green Infrastructure to support the natural environment and human health.'*

2.3 There is strong support for Policy DM6 from statutory consultees. For example Herts and Middlesex Wildlife Trust strongly support Policy DM6 and are pleased to note the particular references to County Wildlife Sites and LNRs, alongside SSSIs. They also support the reference to Biodiversity Action Plan species alongside protected species which should be adequately protected in the context of development.

2.4 The indicator to assess the effectiveness of Policy DM6 and also Policy CP9 of the Core Strategy is 'Change in areas of biodiversity significance' with a target of no net loss of Sites of Special Scientific Interest, Local Nature Reserves or local wildlife sites.

- 2.5 The Annual Monitoring Report 2011-2012 found that over the monitoring year, there was a reduction of one site designated as a site of biodiversity importance, as the local wildlife site at Bullsland Farm was reviewed and found not to meet bat criteria. It was therefore de-selected as a wildlife site. Overall however, there was an increase of 71.1ha in the area designated as having biodiversity importance. This was a result of boundary reviews of a number of local wildlife sites. Given the overall increase in area designated as of biodiversity importance and the lost deselected site was as a result of review of the data rather than any actual change in biodiversity, it is considered that policies have been effective in conserving biodiversity.
- 2.6 As part of the planning application process applicants are required to submit a biodiversity checklist to assess whether the proposed development would have any significant impact on protected species at the validation stage. The checklist identifies proposals for development that may trigger a protected species survey and assessment.

3.0 QUESTION GE3

3.1 Does the approach to protected sites appropriately reflect NPPF guidance on the hierarchy of such sites and ensuring that protection is commensurate with their status?

3.2 Yes.

3.3 Policy DM6 is in accordance with paragraph 113 of the NPPF which states that Local Planning Authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

3.4 Paragraph 8.67 sets out the hierarchy of the international, national and locally designated sites from SSSIs to Local Wildlife Sites.

3.5 Policy DM6 a) is a criteria based policy against which proposals for development will be assessed. In practice this means that applicants proposing development will have to demonstrate exceptional circumstances for development that clearly outweigh the need to safeguard the site. It is in this consideration that the hierarchy of the site will be considered and the relevant weight afforded.

4.0 QUESTION GE4

4.1 Is the approach to conservation, enhancement and restoration of biodiversity sufficiently clear, measurable and specific?

4.2 Yes. Policy DM6 section d) sets out the ways in which development must conserve, enhance and restore (where appropriate) biodiversity.

4.3 Further guidance for applicants is provided in paragraphs 8.10- 8.17. Paragraph 8.10 states that developers should have regard to the potential impact of development proposals on biodiversity, trees, watercourses and woodlands from the outset. Applications should be accompanied by sufficient information to assess the impact of the proposed development on any protected species, trees, watercourses, woodlands or priority habitats.

- 4.4 Paragraph 8.13 sets out the sites and species that the Council will conserve and enhance (where possible) in accordance with national policy on biodiversity and geology. For example Sites of Special Scientific Interest and County Wildlife Sites.
- 4.5 A Green Infrastructure and Landscape SPD will provide more detailed guidance relating to the requirements and provision of Green Infrastructure to cover networks of protected sites, nature reserves, green spaces, waterways and green linkages.
- 4.6 The proposed monitoring indicator for Policy DM6 is 'change in areas of biodiversity significance' and the target is 'no net loss of Sites of Special Scientific Interest, Local Nature Reserves or local wildlife sites'. The indicator is one used to assess Policy CP9 of the Core Strategy and has been previously used to assess Saved Policies N1, N2 and N3 of the Three Rivers Local Plan 1996-2011. The indicator has proven to be effective in the past and will continue to be in the future (See the Annual Monitoring Report SD28).

5.0 QUESTION GE5

5.1 Are aspirational provisions of the Policy (e.g. (c) and (g)) soundly based, measurable and likely to be effective?

- 5.2 Public consultation of the Core Strategy Issues and Options Paper (DMC8) found that there was strong support towards protecting important wildlife sites and species and landscape but also to enhance where possible.
- 5.3 There is strong support for the policy from statutory consultees. Herts and Middlesex Wildlife Trust strongly supports Policy DM6 and are pleased to note the particular references to County Wildlife Sites and LNRs, alongside SSSIs. Herts Biological Records Centre has stated that Policy DM6 is a strong policy that they welcome, and Natural England support the policy objectives for conserving, enhancing and restoring biodiversity.
- 5.4 Policy DM6 has been adapted from Saved Policies N1, N2, N3 and N4 of the existing Local Plan which have been effective in ensuring development proposals conserve and enhance biodiversity, trees and woodland.
- 5.5 Throughout the consultation of the document the Council has taken into consideration the representations received and made appropriate changes to make the policy stronger and deliverable. For example after receiving the comments from the Environment Agency, section (g) Watercourses was included to ensure that the Council meets its obligations under the Water Framework Directive (**SD26**).

5.6 QUESTION GE5

5.7 Is the proposed monitoring indicator for Policy DM6 sufficient, appropriate and likely to be effective?

- 5.8 Yes.
- 5.9 The proposed monitoring indicator for Policy DM6 is 'change in areas of biodiversity significance' and the target is 'no net loss of Sites of Special Scientific Interest, Local Nature Reserves or local wildlife sites'. The indicator is one used to assess Policy CP9 of the Core Strategy and has been previously used to assess Saved Policies N1, N2 and N3 of the Three Rivers Local Plan 1996-2011.
- 5.10 The Annual Monitoring Report 2011-2012 found that that over the monitoring year, there was a reduction of one site designated as a site of biodiversity importance, as

the local wildlife site at Bullsland Farm was reviewed and found not to meet bat criteria. It was therefore de-selected as a wildlife site. Overall however, there was an increase of 71.1ha in the area designated as having biodiversity importance. This was a result of boundary reviews of a number of local wildlife sites. Given the overall increase in area designated as of biodiversity importance and the lost deselected site was as a result of review of the data rather than any actual change in biodiversity, it is considered that policies have been effective in conserving biodiversity.

- 5.11 The proposed monitoring indicator would be sufficient, appropriate and likely to be effective because it would identify whether Policy DM6 is being effective in ensuring that there would be little if any reduction in areas and populations of biodiversity importance including change in priority habitats and species. The indicator has also already been tested in the AMR against biodiversity policies within the Core Strategy and the Local Plan.

6.0 QUESTION GE6

6.1 Is the emphasis in Policy DM7 on proposals making a positive contribution to landscape character appropriate? How is "positive" to be defined?

6.2 Yes.

6.3 Strategic objective 9 of the Core Strategy aims to conserve and enhance the countryside and the diversity of landscapes, wildlife and habitats in the District within a coherent network of Green Infrastructure to support the natural environment and human health. The use of 'positive contribution' represents the way in which the character and distinctiveness of landscape regions should be conserved or enhanced. In accordance with the NPPF policy DM7 is a criteria based policy which proposals for any development affecting landscape regions including parts of the Chilterns AONB will be judged. Section (b) points i) - iv) set out several aspects of a development proposal that could make a positive contribution to landscape character. However it is important to note that each application is assessed on its own merits.

7.0 QUESTION GE7

7.1 Does support for proposals likely to make a positive contribution give sufficient guidance on proposals that are not likely to be acceptable in the landscape?

7.2 Policy DM7 part b) sets out examples of how proposals can make a positive contribution to the landscape and additional guidance for the plan user is provided in paragraphs 9.9 – 9.11 and in the 'Additional Information' section of the Further Guidance table in the form of the:

- Chilterns Buildings Design Guide and Supplementary Technical Notes on Chilterns building materials (flint, brick and roofing materials)
- Hertfordshire County Council's Landscape Character Assessment
- Green Infrastructure and Landscape SPD (Forthcoming)

7.3 By providing the plan user with this information and further guidance we make it clear as to what is likely to be acceptable and by inference what will not be considered acceptable.

8.0 QUESTION GE8

8.1 Should reference be made to monitoring indicators for Policy DM7? If so, what indicators might be appropriate?

- 8.2 Appendix 1 of the LDD sets out the monitoring framework for each DM Policy. The proposed monitoring indicator for Policy DM7 is 'new development in the Chilterns AONB'. This indicator is considered appropriate for future review of the policy. The Annual Monitoring Report will assess the extent to which the policy objectives are being achieved.
- 8.3 The Council acknowledges that there is no indicator that would assess section (b) Landscape Regions of Policy DM7. The Council proposes the following additional modification to Appendix 1 to ensure Policy DM7 is effective.

DM7 Indicator: New development in the Chilterns landscape region, the Central River Valleys landscape region and the South Hertfordshire Plateau.

Target: No specific targets- levels will be monitored.

9.0 QUESTION GE9

9.1 Is it appropriate for Policy DM11 to "require" developer contributions towards provision of sports facilities?

9.2 Yes.

9.3 Paragraph 73 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Strategic objective 11 of the Core Strategy sets out the Councils objective to provide accessible and varied opportunities for leisure, arts, sport and recreational activities in order to promote healthy lifestyles.

9.4 The NPPF goes on to say that planning policies should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.

9.5 A detailed assessment of existing provision of sport/ recreation facilities is contained in the Open Space, Sport & Recreation Study 2005 (EB05) and in the Open Space Update 2010 (EB06) which were undertaken in accordance with National policy. The assessments identified areas of both surplus provision and under provision across the district. The Infrastructure Delivery Plan is updated annually and will identify future need for sports facilities.

9.6 The Council needs to ensure that new development is adequately served by sports facilities so needs to 'require' their provision as part of new developments unless these are included in a future Community Infrastructure Levy (CIL). It is important to note that Policy DM11 states that the 'Council **may** require developer contributions to the provision of enhancement of local sports facilities where a **need** is demonstrated...' The policy is therefore considered flexible to deal with changing circumstances and in turn justified.

10.0 QUESTION GE10

10.1 Are the guidelines figures for open space soundly based and properly justified?

10.2 Yes.

10.3 Detailed guidance on the provision of open space is set out in the Open Space, Amenity and Children's Playspace SPD (**SD33**) which was adopted in December 2007

following an independent sustainability appraisal and public consultation. Sections 3 and 4 of the SPD set out the minimum standards required for open spaces and Appendices 3, 4 and 5 set out the costs of preparing the land, providing facilities and on going maintenance costs which are based on Spon's Landscape and External Works Pricebook, standard space requirements for play areas (NEAPs, LEAPs, MUGAs etc), the costs of provision and maintenance of such spaces based on standard costs for grass cutting, equipment maintenance etc.

10.4 A detailed assessment of existing provision of open spaces is contained in the Open Space, Sport & Recreation Study 2005 (EB05) and in the Open Space Update 2010 (EB06).

11.0 QUESTION GE11

11.1 What is the essential purpose of Policy GM15? Is it sufficiently focussed?

11.2 The policy aims to ensure that potential residential moorings benefit from the same level of access to services and facilities as those living in traditional housing. It not only seeks to control applications for residential moorings but also for other moorings that may occur over the plan period such as moorings for office use. The policy cannot be applied to moorings that do not require planning permission such as leisure moorings and is therefore focussed only on those that do.