

**Forest Town Nature Conservation Group (FTNCG) February 2016  
representations on the MDC Local Plan Consultation Draft**

Paragraph 3.14 ('Our future Mansfield district', Page 23)

RELEVANT TEXT:

*"By 2033, the district will have benefited from sustainable growth, where utilising previously developed land and under-used greenfield land, together with urban extensions, will have supported regeneration of the urban areas with high quality new developments."*

*"Appendix 4 - Jargon buster*

*DISCLAIMER: The information above is not a statement of the law. While every effort has been taken to check the accuracy of the information below, we cannot be held liable for any financial loss resulting from the professional advice contained herein. Readers are advised to seek advice before proceeding on any matter."*

*"Underused greenfield land: Land that has never been developed but is not used for any particular purpose. It will not be allocated or designated on the policies map."*

COMMENT:

The term 'under-used greenfield land' is so vague it could be read to mean sites that are used, but have the opportunity to be used further, or site that are used by wildlife, e.g. as a green corridor, but not used by humans, e.g. because they are difficult to access.

Whilst it is understood that the term is explained in Appendix 4: Glossary (Page 221), we also note that: (a) the glossary itself has a disclaimer which means it does not necessarily limit the definition of the term to the meaning stated within the glossary, and (b) the language used in the glossary is itself vague, and does not explicitly rule out inclusion of green spaces used as wildlife corridors, etc, from the concept of land that "is not used for any particular purpose".

SUGGESTION:

If planners have particular greenfield sites in mind that they feel are under-utilised then these specific sites should be identified in a specific policy that should then be subject to consultation.

Any policy should be worded so as to make clear that if a site has value in terms of its ecological use or potential then it should not be promoted for development simply because it is not currently being used for any particular purpose by humans.

Indeed, it should be recognised in the Local Plan that greenfield sites that are not currently being disturbed by human activity can play a valuable role in providing

havens for wildlife, green corridors, etc, and so protecting them could be more important than protecting other greenfield land.

Paragraph 4.17 ('Distribution of new development', Page 39)

RELEVANT TEXT:

*"The council's approach to the distribution of the development requirements is to maximise underused land within the urban areas of Mansfield and Market Warsop in order to make best use of existing infrastructure and support the sustainability of the areas."*

COMMENT:

The approach to "maximise [the development of] underused land" is flawed for similar reasons as highlighted in FTCC's objection to Paragraph 3.14, in that it fails to recognise the ecological value of what might be described as 'underused land'.

A change of wording to Paragraph 4.17 is necessary to prevent unsustainable and significant harm to the Green Infrastructure network and to bring the stated approach in line with the stated intention, as explained at Paragraph 4.19, that new development be directed towards the most sustainable locations.

SUGGESTION:

Add the following sentence: "Land of ecological value or ecological potential will not be considered to be 'underused land' for the purposes of this approach as such land can form a significant part of the existing and potential green infrastructure."

Policy M1 ('Urban regeneration', Page 68)

RELEVANT TEXT:

*"Proposals that regenerate the Mansfield urban area will be supported, particularly where they:*

- a. facilitate the upgrading of older / less popular housing areas through the selective refurbishment, demolition and replacement of properties. As necessary, development schemes will be required to be developed in accordance with comprehensive masterplans and in consultation with local communities*
- b. promote economic development that diversifies the local economy*
- c. deliver new housing development, in particular, on suitable previously developed land, and underused greenfield sites..."*

COMMENT:

The term 'under-used greenfield land' is so vague it could be read to mean sites that are used, but have the opportunity to be used further, or site that are used by wildlife, e.g. as a green corridor, but not used by humans, e.g. because they are difficult to access.

Whilst it is understood that the term is explained in Appendix 4: Glossary (Page 221), we also note that: (a) the glossary itself has a disclaimer which means it does not necessarily limit the definition of the term to the meaning stated within the glossary, and (b) the language used in the glossary is itself vague, and does not explicitly rule out inclusion of green spaces used as wildlife corridors, etc, from the concept of land that "is not used for any particular purpose".

#### SUGGESTION:

If planners have particular greenfield sites in mind that they feel are under-utilised then these specific sites should be identified in a specific policy that should then be subject to consultation.

Any policy should be worded so as to make clear that if a site has value in terms of its ecological use or potential then it should not be promoted for development simply because it is not currently being used for any particular purpose by humans.

Indeed, it should be recognised in the Local Plan that greenfield sites that are not currently being disturbed by human activity can play a valuable role in providing havens for wildlife, green corridors, etc, and so protecting them could be more important than protecting other greenfield land.

M3(ad) - Site allocation for 5.8 hectares at Old Mill Lane / Stinting Lane  
& M3(ae) - Site allocation for 4.6 hectares at New Mill Lane / Sandlands  
(‘Allocations for new homes in Mansfield’, Page 79)

#### COMMENTS:

Building on these sites would result in unacceptable flooding of the path along the River Maun and diffuse pollution into the River Maun. There is a significant slope which runs from the already developed site at Sandlands Way down to the path at the river.

The fact that the Sandlands Development has been built means that water previously absorbed throughout the area is now displaced down the slope towards the river. It is common knowledge that this has exacerbated boggy conditions, jeopardising the public footpath that runs along the River Maun.

It seems obvious that the inevitable result, whatever draining systems are used, that development in the two proposed allocated sites, amounting to more than 10 hectares, would further exacerbate the flooding and diffuse pollution issues, and could well result in the deterioration of WFD water body status for the River Maun.

In FTNCG's understanding Stinting Lane's ancient hedgerows are classed as 'important' hedgerows under the Hedgerow Regulations 1997. FTNCG is concerned that the development of either or both M3(ad) and M3(ae) would result in the deterioration of the ancient hedgerows along Stinting Lane.

Furthermore, FTNCG notes that sites M3(ad) and M3(ae) are protected under NE2, and that even medium-scale development on these sites could harm, rather than enhance, the strategic GI network. This is especially the case given the prospect of increased flooding due to climate change and the role that these sites currently play with regard to increasing resilience to climate change and protecting the River Maun, and the public footpath along it, from flooding and diffuse pollution.

#### SUGGESTIONS:

Remove allocations for sites M3(ad) and M3(ae).

If the allocation of sites M3(ad) and/or M3(ae) are not removed, then the Local Plan should, at the very least, also make clear the concerns noted by FTNCG, and require that they be adequately addressed in any development. It should be made explicit that any development in the vicinity of ancient hedgerows must enhance, rather than harm, these ancient hedgerows.

Additionally, the Plan should significantly reduce the footprint of the proposed allocations, to reduce impacts on the hedgerow and flooding / diffuse pollution.

#### Policy ST1 ('Protecting and improving our sustainable transport network', Page 122)

#### RELEVANT TEXT:

*"Proposals which encourage sustainable travel across the district by enhancing the existing sustainable transport network will be supported, particularly where they:*

*"a. improve access to the multi-user trails network across the district especially the Maun Valley Trail, Mansfield Way, Timberland Trail, Meden Trail, Dukeries Trail and the National Cycle Route 6..."*

#### COMMENT:

The current draft wording does not actually protect the existing multi-user trails network. This goes against the policy explanation at paragraphs 7.1, which reads as follows: "This policy seeks to support and promote sustainable transport across the district by protecting existing key infrastructure and potential routes, and setting out priorities for improvement."

Furthermore, the current policy wording does not fulfil the intention of paragraph 7.5, which reads: "We need this policy in order to ensure that the future growth of the district is supported by improvements to the existing network..."

## SUGGESTION:

The following text should be added to the policy: "There will be a presumption against proposals that could harm the multi-user trails network, or access to or enjoyment of the network, and such proposals will be refused."

And: "Where relevant, for example due to proximity of a proposed development to the network, development proposals will be required to improve access to the multi-user trails network."

## Policy CC4 - Impact of development on water (Page 140)

### RELEVANT TEXT:

*"Planning permission will be granted for developments which maintain or improve the natural attributes and health of the water environment.*

*"Proposals for development will be supported where they incorporate sustainable drainage systems (SuDS) in order to minimise and manage flooding and improve water quality, compliment water efficiency measures and benefit biodiversity.*

*"Developments that would impact on green SuDS priority areas and low flow areas should contribute to the creation of green SuDS, and / or enhancement of these areas.*

*"Development adjacent any watercourse will need to provide a green buffer providing biodiversity enhancements, including wildlife connectivity enhancements, and adding amenity value, in accordance with Policy NE2."*

### COMMENT:

The current wording of the proposed policy means that the policy would not clearly deliver the protections anticipated in the explanation, justification and evidence background stated for the policy.

Paragraph 8.20 of the MDC Local Plan Consultation Draft declares that: "Policy CC4 requires that relevant developments address water conservation, water quality, ecology and flood resilience, in order to achieve sustainable urban design and helping to maintain a healthy environment", however, not all of the issues from Paragraph 8.20 that need to be addressed are explicitly required to be adequately addressed within the current draft policy wording for CC4.

The current wording for Policy CC4 states that planning permission will be granted for developments which maintain or improve the natural attributes and health of the water environment, but does not make it clear that planning permission will be refused for development proposals that fails to maintain or improve the natural attributes and health of the water environment.

MDC Local Plan Consultation Draft paragraph 2.28 acknowledges that: "There is a need to put safeguards in place against possible contamination of water sources, especially areas designated as zone one aquifers". However, the current framing of the policy does not make it explicit that proposals that could cause possible contamination of water sources would be refused planning permission.

The policy should be amended in line with NPPF paragraphs 2, 109 and 110 to do more to ensure that proposed developments contribute to, and do not jeopardise, Water Framework Directive (WFD) objectives.

We note that NPPF paragraph 2 reads: "...Planning policies...must reflect and where appropriate promote relevant EU obligations and statutory requirements."

We note that NPPF paragraphs 109 and 110 read as follows: "The planning system should contribute to and enhance the natural and local environment by...preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability...In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment..."

Additionally, the current Draft Plan fails to recognise the Sherwood Water Catchment Partnership or the Partnership's vision: "To conserve and enhance the Rivers Poulter, Meden and Maun, their tributaries and surrounding land to create a healthy and biodiverse water environment for the benefit of both people and wildlife."

#### SUGGESTION:

For the avoidance of doubt, the policy text should be amended to deliver the protections justified by the stated rationale for the policy.

All of Environment Agency's examples of how local planning policies within the Midlands can contribute to WFD objectives should be incorporated within CC4 or elsewhere within the plan.

These can be found within Section 2.3.5 of the Environment Agency's 'Advice Note on the Water Framework Directive for Local Authorities across the Midlands (June 2012)' which is available from:

<http://www.emcouncils.gov.uk/write/LA%20Services%20and%20the%20Water%20Environment%20Advice%20Note.pdf>

"Planning permission will be granted..." should be amended to read "Planning permission will only be granted..."

The following paragraph, which is based on the EA Advice Note and consistent with the Sherwood Water Catchment Partnership's vision, should be added to the wording of Policy CC4: "Development proposals must not lead to deterioration of

WFD water body status. Development proposals will be expected to conserve, and where possible enhance, watercourses and riverside habitats, to create a healthy and biodiverse water environment for the benefit of both people and wildlife."

The following paragraph, which is based on the EA Advice Note, should also be added to the wording of Policy CC4: "Where relevant, development will be expected to upgrade, or pay towards the upgrade of, local water infrastructure, e.g. in line with Policy M2(b)."

The following paragraph, which is based on the EA Advice Note, should also be added to the wording of Policy CC4: "Planning applications that result in wastewater or surface water to be drained must be accompanied by a water management statement which identifies water cycle issues relevant to the development proposal and the means proposed to address these."

The following paragraph, which is based on the EA Advice Note, should also be added to the wording of Policy CC4: "Applicants will be required to provide an environmental assessment for any proposed schemes where the local evidence shows that development might have significant impacts on water bodies."

Additionally, reference should be made (perhaps in the supporting text) to the Sherwood Water Catchment Partnership and to the Partnership's vision: "To conserve and enhance the Rivers Poulter, Meden and Maun, their tributaries and surrounding land to create a healthy and biodiverse water environment for the benefit of both people and wildlife."

#### Policy NE2 ('Green infrastructure', Page 150)

##### RELEVANT TEXT:

*"Planning permission will be granted within or adjacent to areas of strategic green infrastructure (as shown on the policies map) where it enhances its role in providing an accessible, functional, healthy and robust natural environment. Where development would result in the loss of any individual green infrastructure asset, replacement provision which is of equivalent or greater value will be required in order to improve the overall strategic value of the GI network.*

*"Planning permission will be granted for major developments which provide a combination of GI benefits and clearly show how they address:*

- a. key principles and actions within the GI and Biodiversity Supplementary Planning Document, where applicable*
- b. the integration of public open space and other amenity areas within green corridors and other access links*
- c. how the GI will be managed and by whom*
- d. how the creation and enhancement of GI (on / adjacent to the development site) contributes to combined environmental, community and / or regeneration*

*benefits*

*e. how local communities and appropriate organisations have been consulted in the design of new or enhanced GI."*

#### COMMENT:

The current wording of Policy NE2 does not achieve all of what is anticipated by the supporting text in terms of protecting the GI network and ensuring development in and near it contributes to the network.

The policy, as currently drafted, seems to assume that in all instances, making the GI network more 'accessible' is a desirable goal. The meaning of 'accessible' in this context is unclear. More accessible to walkers, to horseriders, to animals, to illegal motorcycle use? In some cases, making a site more 'accessible' to humans will harm its value to nature, and making it less 'accessible' to humans could make it more valuable to nature.

There are additional areas that can either be added directly to the Strategic GI Network, or recognised as import for green corridors / stepping stones to support the Strategic GI Network. This will help increase the benefits of the Strategic GI Network and increase its resilience and coherence.

#### SUGGESTION:

The current wording of Policy NE2 needs to make clear that proposals that will harm the Strategic Green Infrastructure Network will be refused, and that where relevant addressing items a-e will be expected of development proposals. For the avoidance of doubt, the term "...clearly show how they address..." should be amended to read "...clearly show how they adequately address...".

The wording of the policy with respect to 'accessibility' needs to be made more clear, and requires refinement to ensure that making the network more accessible for humans does not have unacceptable adverse impacts upon the network providing a functional, healthy and robust natural environment.

For example, measures that will encourage increased usage of areas of strategic green infrastructure should where necessary be accompanied by improvements to increase the capacity and resilience of that site to allow for such increased usage. Where relevant, gates and barriers may be necessary to prevent illegal motor uses of areas of strategic green infrastructure.

Furthermore, the following text should be added to the policy: "Significant weight will be placed on protecting the Strategic Green Infrastructure Network, not least for its economic, social and environmental benefits. Inappropriate development will not be allowed within or in the vicinity of the strategic green infrastructure network. Where development is acceptable within or in the vicinity of the strategic green

infrastructure network it will be expected to enhance existing areas and/or create new linkages to result in a permanent net benefit to the network overall."

The supporting text to NE2 should quote the National Planning Policy Guidance (NPPG) statement that: "Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well planned, designed and maintained. Green infrastructure should, therefore, be a key consideration in both local plans and planning decisions where relevant." (NPPG, 8-028-20160211, updated 11<sup>th</sup> February 2016).

The supporting text to NE2 should also quote the National Planning Policy Guidance (NPPG) statement that: "As with other forms of infrastructure, green infrastructure requires sustainable management and maintenance arrangements to be in place if it is to provide benefits and services in the long term. Arrangements for managing green infrastructure, and for funding its management over the long-term, should be identified as early as possible when planning green infrastructure and factored into the way that it is designed and implemented." (NPPG, 8-031-20160211, updated 11<sup>th</sup> February 2016).

The following should be included within the areas that constitute Mansfield's strategic GI network: The green corridor that currently extends from Garibaldi Wood / Spa Ponds across the agricultural land (scheduled for development) to the Newlands Farm end of Newlands Road and across to Vicar Water and also extending to the Sherwood Forest Golf Course should be protected under Policy NE2, e.g. to provide at least stepping stones or green corridors as part of the Strategic Green Infrastructure by preventing the loss of green spaces provided by private gardens, etc.

The following should be included within the areas that constitute Mansfield's strategic GI network: The green corridor along Warren Farm and nearby playing field to Fairview / Little Hollies and through Summer Downs to area around Flint Avenue / Holly and Forest Town school playing fields and on past the cemetery through the football pitches near the Forest Town Welfare (Arena), and through the allotments and along the length of Newlands Road (along the Crown Farm Industrial Estate bund), connecting with Newlands Farm, etc. should be recognised as a green corridor and protected under Policy NE2.

The following should be included within the areas that constitute Mansfield's strategic GI network: The unallocated space to the South of M3(ae) / Stinting Lane is, we understand, on-site green space that is required by planning condition as part of the permission for the Sandlands development. This green space should be designated as part of the Strategic Green Infrastructure and should be protected under Policy NE2, as it provides a strategic link between the green spaces along the

River Maun and the Rushpool Open Space. Indeed the Rushpool Open Space itself should be designated so as to benefit from Policy NE2 in addition to Policy NE3 (not least because of the invertebrate interest on the site, and the habitat improvement schemes carried out on the site).

Additionally the unallocated parcels of land near Beeston Lodge, and the land to the North of Spa Ponds between Small Dale and Gorse Covert, as well as Peafield Farm, should all be designated as part of the Strategic Green Infrastructure (and protected under Policy NE2).

#### NE5 - Protection of local green space (Page 157)

##### RELEVANT TEXT:

*"Planning permission will only be granted for developments on a site designated as local green space, provided that the development clearly enhances the area for the purposes it was designated."*

*"Developments proposed adjacent to a local green space will be granted planning permission if it would not harm the purpose for which the area was designated."*

##### COMMENTS:

The current wording of the proposed policy means that the policy would not clearly deliver the protections anticipated in the explanation, justification and evidence background stated for the policy.

The policy does not explicitly state that developments proposed adjacent to a local green space would not be granted planning permission if it would harm the purpose for which the area was designated.

Furthermore, development in areas not directly adjacent to a local green space could still harm the purpose for which the area was designated, e.g. a nearby shooting range disrupting the tranquillity of a site designated for its tranquillity.

##### SUGGESTIONS:

For the avoidance of doubt, the policy text should be amended to deliver the protections justified by the stated rationale for the policy.

The second sentence should be amended to read: "Developments, including changes of use, proposed in the vicinity of a local green space will be granted planning permission only where it has been clearly demonstrated that the development would not harm the purpose(s) for which the area was designated."

#### NE5(k) - Spa Ponds, off Clipstone Drive, Mansfield (Page 159)

##### RELEVANT TEXT:

*"It has special historic significance, being part of Richard II's hunting grounds. The beauty of the site is due to its unique woodland and wetland setting which forms an important part of the Sherwood Landscape Character Area. The majority of this site is designated as a Local Wildlife Site and supports Biodiversity Action Plan priority habitats. The site provides a variety of recreational opportunities included fishing, walking and horse riding."*

#### COMMENT:

FTNCG does not authorise fishing activities on our Spa Ponds site at present.

The historical significance of FTNCG's site relates more to Edward II than Richard II, and could benefit from being put into a wider context.

#### SUGGESTION

Remove the reference to fishing, and add "conservation volunteering" to the recreational opportunities, to read: "...recreational opportunities including conservation volunteering, walking and horse riding."

Amend "It has special historic significance, being part of Richard II's hunting grounds" to read: "It has special historic significance within the context of Clipstone Park and the associated medieval peel enclosure and King's Houses. King Edward II had the ponds constructed in 1316, and was one of many Plantagenet Kings to frequent Kings Clipstone and make use of the royal hunting grounds of Clipstone Park."

#### Policy NE6 - Protection of trees (Page 162)

#### RELEVANT TEXT:

*"Consent for works to protected trees will be granted where:*

- a. the amenity value and / or character of the area is conserved, and*
- b. the reason for tree removal is proportionate to its value (where relevant), and*
- c. proposed works / felling are in accordance with good arboricultural practice and are properly justified through an accompanying detailed arboricultural and / or structural engineer's report, and*
- d. adequate replacement planting is proposed (where relevant and appropriate to the amenity and / or character of the area)."*

#### COMMENTS:

Changes need to be made to the wording of the policy to fulfil the statement at paragraph 9.47 that: "The policy ensures that all proposals for works to, or removal of, protected trees are fully justified by the applicant".

## SUGGESTION:

Change "will be granted" to "will only be granted".

At the very least make it clear that works to protected species will be expected to meet all of the criteria.

Add the following text to the wording of the policy itself: "All proposals for works to, or removal of, protected trees must be fully justified by the applicant."

## Policy NE7 - Biodiversity (Page 165)

### RELEVANT TEXT:

*"Planning permission will be granted for developments which conserve, and where feasible provide net gains in, biodiversity by maximising opportunities to incorporate biodiversity enhancements across a landscape-scale, as it relates to the development.*

*Where harm to the ecological network cannot be avoided, mitigation should be provided. If this is not possible, off-site compensation must be provided in order for the development to be permitted.*

*All development proposals which affect ecological networks or protected species must be accompanied by an ecological assessment which demonstrates how the development will:*

- a. prioritise the protection and enhancement of priority or protected species, or priority or irreplaceable habitats*
- b. prioritise the protection and enhancement of landscape features of major importance for wildlife*
- c. where possible, avoid fragmentation of the ecological network*
- d. restore missing habitat links and landscape features through habitat creation and re-creation. Where this is not possible, buffer priority habitats and designated sites through the creation of complimentary habitats within landscaping and green space*
- e. address long-term sustainability of biodiversity through appropriate design and management plans*
- f. plan for the movement of wildlife within and off the proposed development site*
- g. prioritise the retention / creation of habitats and landscape features in appropriate publicly accessible areas.*

*"This policy will be applied in accordance with the GI and Biodiversity Supplementary Planning Document."*

### COMMENTS:

The current wording of the proposed policy means that the policy would not clearly deliver the protections anticipated in the explanation, justification and evidence background stated for the policy.

The current policy wording does not ensure "the protection and enhancement of the district's protected and priority species, priority and irreplaceable habitats and ecological networks" (paragraph 9.53), nor would the policy ensure delivery of "the Government's commitment to halt the overall decline in biodiversity" (paragraph 9.52).

The policy does not, as anticipated at paragraph 9.65, clearly address "the possible potential special protection area (pSPA) as it relates to nightjar and woodlark populations and their habitats", nor does the policy wording ensure that impact from development on this possible European site will be addressed in a risk assessment (as per paragraph 9.65).

It would appear from the information provided on page 172 of the Consultation Draft that neither Natural England's Advice Note on Woodlark and Nightjar nor the relevant material relating to the Rufford incinerator inquiry were used as evidence to inform Policy NE7. If the policy is intended to address the suggested Sherwood SPA then these documents should be taken into account, alongside MDC's own "Risk-Based Approach to Determining Likely Significant Effects on Nightjar and Woodlark Populations in the Sherwood Forest Area".

Policy NE7 itself makes no reference to Natural England's (NE's) Advice Note, and does not appear to follow NE's advice to adopt "a precautionary approach...which ensures that reasonable and proportionate steps have been taken in order to avoid or minimise, as far as possible, any potential adverse effects from development on the breeding populations of nightjar and woodlark in the Sherwood Forest area".

#### SUGGESTION:

For the avoidance of doubt, the policy text should be amended to deliver the protections justified by the stated rationale for the policy.

This policy should provide greater clarity regarding circumstances where permission would be refused because of harm to, and/or failure to improve biodiversity, including for undesignated spaces.

NE7(a) does not go far enough to provide the level of protection expected under legislation, and therefore either the policy needs amending or explanatory text needs to be added to make it clear that a proposal would be refused if that refusal was necessary to meet legal obligations to protect those species and/or their habitats, even in circumstances where the proposal was not otherwise inconsistent with Policy NE7.

In order to ensure that Mansfield District council follows its own advice (as expressed in MDC's "Risk-Based Approach to Determining Likely Significant Effects on Nightjar and Woodlark Populations in the Sherwood Forest Area") the following should be added to Policy NE7: "Planning permission will be refused where possible impacts on woodlark/nightjar have not been adequately addressed. It is up to the applicant to provide all necessary information, so that Mansfield District Council is confident the Risk-based Assessment can be adequately applied. It is important to note that permission should be avoided for any development located within the combined indicative core areas (ICA) and RSPB important bird areas (IBA) as it is likely to be difficult to avoid or mitigate any likely significant effects."

Additionally, the following wording should be added to support consistency with Natural England's relevant Advice Note and with the Council's legal obligations: "Where proposals might adversely affect breeding populations of woodlark and/or nightjar, a precautionary approach will be taken so as to protect those species and their habitat.

"When considering the impact of development on bird species listed on Annex 1 of the European Wild Birds Directive, e.g. woodlark and nightjar, an approach similar to that set out in the relevant legislation (Regulation 61 of the Habitats Regulations) will be adopted.

"Planning permission will not be granted unless the decision-maker is confident that the proposal would still be acceptable were the SPA or pSPA to be declared and that the proposal would not need to be revoked or amended were such a SPA or pSPA to be declared.

"A fully-recorded precautionary risk-based approach will be applied that takes into account Natural England's latest advice on this matter."

#### Policy NE8 - Protection of designated biodiversity and geodiversity sites (Page 166)

##### RELEVANT TEXT:

*"Planning permission for development which impacts on designated sites of importance for biodiversity and geodiversity, their features of interest and their role in the wider ecological network, directly or indirectly, will only be granted where:*

- a. the benefit of the development outweighs the significance of the protected site and its position in the hierarchy, and the harm caused*
- b. it can be demonstrated that avoidance and mitigation has been followed in accordance with Policy NE7 and relevant legislation*
- c. they are accompanied by a relevant assessment to demonstrate the impact of development upon the designated site.*

*"This policy will be applied in accordance with the GI and Biodiversity Supplementary Planning Document."*

#### COMMENTS:

The wording of this policy to be amended to more robustly ensure "the protection of sites and habitats with important biodiversity and geodiversity value" in line with paragraph 9.58 of the Consultation Draft.

The policy needs to be clear that the burden of proof rests squarely with the applicant to demonstrate that their proposed development would not impact on a designated site, feature of interest, etc. Without such clarity there is a danger that a failure to investigate the possibility of harm would inadvertently be rewarded.

#### SUGGESTIONS:

The policy should make clear that a., b. and c. will all need to be met for planning permission to be granted, e.g. by adding "and" to the end of a. and b.

a. should be amended to add the word 'clearly' before the word 'outweighs' to read: "...the benefit of the development clearly outweighs the significance of the protected site and its position in the hierarchy..."

b. should be amended to read: "...it has been demonstrated that avoidance and mitigation has been followed..."

c. should be amended to also require that cumulative impacts are taken into account in any relevant assessment.

Additionally, the policy itself should either include paragraphs 9.64 - 9.68 of the Consultation Draft directly, or at the very least make it clear that development proposals that go against those paragraphs will be refused. Also add the following text to the section on locally important sites: "Locally important sites represent some of the most valuable local environmental sites. Development should have regard to the reasons for the designation and not harm the integrity of these sites nor the connections between them and other environmental assets."

Further clarity should be provided by ensuring the policy explicitly notes that the burden of proof rests squarely with the applicant to demonstrate that their proposed development would not impact on a designated site, feature of interest, etc.