

SECTION 10 - Chapter C2 Natural Environment

Chapter C2 - General

2303/B8	Wellow Residents Association	C2
2695/B2	The Springs Foundation	C2

Issues

- i) Is clarification needed of the relationship between the natural environment policies and BPEO for waste management?
- ii) Should reference be made to the Bath Hot Springs?

Inspector's Reasoning

Issue (i)

10.1 Any proposals coming forward for waste management facilities would be assessed against all relevant policies in the Plan, including those in the Natural Environment Chapter. I consider that there is no need to make reference to BPEO in this section of the plan.

Issue (ii)

10.2 The Bath Hot Springs are the subject of Policy NE.13A and paragraphs C2.56B – D in the RDDLP, inserted in response to the original objection. I consider this to be sufficient and that no further reference is needed.

Recommendation: no change

Chapter C2 - Policy NE.1, Paragraphs C2.7 and C2.11 and Diagram 10

3278/B28	Persimmon Homes (Wessex) Ltd	C2.7
564/B22	London Road Area Residents Association	Diagram 10
462/B24	Gleeson Homes	NE.1
581/B8	Batheaston Society	NE.1
685/B21	Batheaston Parish Council	NE.1
685/B25	Batheaston Parish Council	NE.1
2303/B6	Wellow Residents Association	NE.1
2975/B17	Crest Nicholson Properties Limited	NE.1
3098/B36	George Wimpey Strategic Land	NE.1
3099/B28	Barratt Bristol Limited (Mr A T P Joliffe)	NE.1
3099/B29	Barratt Bristol Limited (Mr A T P Joliffe)	NE.1
3218/B3	Portland (Radstock) Ltd	NE.1
3230/B2	Countryside Residential (South West) Ltd	NE.1
3233/B19	Mr & Mrs M Williams	NE.1
3236/B1	Mr A Weaver & Mr L Blacker	NE.1
3249/B3	Kingswood School	NE.1
3249/B4	Kingswood School	NE.1
3249/B5	Kingswood School	NE.1
3274/B1	The Girls' Day School Trust	NE.1
3278/B1	Persimmon Homes (Wessex) Ltd	NE.1
3278/B29	Persimmon Homes (Wessex) Ltd	NE.1

3300/B4	Oval Estates (Bath) Ltd	NE.1
3300/C11	Oval Estates (Bath) Ltd	NE.1/A

Supporting Statements

120/C238	Ms Helen Woodley	C2.11/A
120/B90	Ms Helen Woodley	NE.1
376/B14	Mr I Wallis	NE.1
2695/B5	The Springs Foundation	NE.1
2988/B1	Mr & Mrs J Richards	NE.1

Issues

- i) Whether the boundaries of the landscape character areas should be altered?
- ii) Whether the policy is too restrictive, too vague, should protect the character and distinctiveness of small villages, or support the enhancement of the landscape, public access and ecological value?
- iii) Whether the policy should apply only outside the AONBs?

Inspector's Reasoning

10.3 I consider that objections relating to the absence of a Landscape Character Assessment were met by the publication of the SPG in 2003. Errors in Diagram 10 were met by changes in the RDDLP. I need not comment further on these matters.

Issue i)

- 10.4 There are a number of objections relating to the boundaries of the landscape character areas delineated on the DDLP Proposals Map. Objectors seek the realignment of the boundaries to omit or include particular areas. The landscape character areas are not included on the RDDLP Proposals Map. The areas are delineated and described in SPG which was published in 2003 and any alterations to the boundaries of the landscape character areas would require a revision of that document. That document is not a part of the Local Plan and therefore not one on which I can make recommendations.
- 10.5 I consider that the changes made in the RDDLP are appropriate as inclusion of the character area boundaries on the Proposals Map added an unnecessary level of detail. Diagram 10 should be used for illustrative purposes only, with the reader being directed towards the detailed maps in Appendix 3 of the SPG for the precise boundaries of the landscape character areas.
- 10.6 Some of the areas which objectors feel should have been included within the character areas were excluded on the basis that they were considered part of the urban areas of either Bath, Keynsham, Midsomer Norton or Radstock. The Council indicate, however, that landscape assessment is to be extended in the future to cover these areas.

- 10.7 Many objections arise from what I regard as misunderstandings of the concept of landscape character areas and how the SPG might be used. Landscape character assessment is essentially descriptive. The landscape character areas are not restricted to areas of high visual quality. There is no reason why those character areas covering parts of the AONBs should follow the designated boundary of those areas, since the selection of those boundaries included consideration of the quality of the landscape, not just its character.
- 10.8 Inclusion within any particular character area does not mean that the land should not be developed, but should assist in ensuring that any development proposals respect and enhance the character of the natural landscape and the built environment. Individual parcels of land may not reflect the predominant features of the character area, but excluding them from the character area would result in a piecemeal approach to considerations of landscape conservation. Site specific character can be taken into account when individual applications for development are considered. Accordingly, I consider that no modifications to the plan are necessary in relation to the character areas.

Issue ii)

- 10.9 I consider that the aim of Policy NE.1 is clear and not vague. Terms such as "conserve" and "enhance" are long established in policy wording. They can be applied meaningfully in the context of the descriptions of character areas in the SPG, since these indicate what is distinctive about each area. But it would be useful to make additional reference to the Landscape Character Assessment SPG in paragraph C2.11, as it is this document that should primarily be used in the application of the policy. I recommend accordingly.
- 10.10 The policy would apply to proposals coming forward for development throughout the District, including those in small villages. The descriptions of landscape character in the SPG highlight aspects of the traditional settlement pattern. I see no need for specific wording in the plan relating to villages.
- 10.11 The policy is not overly restrictive. One of the objectives of the character-based approach to landscape protection is that it should assist in accommodating appropriate development in the countryside without sacrificing local character. Thus the policy does not, of itself, preclude the development of any particular site. Where development should take place is controlled by other policies in the plan.
- 10.12 Whilst the policy is not positively worded, the implicit aim of the policy is to encourage proposals that respect and enhance the landscape. There are other policies in the plan relating to access and ecology and policy NE.1 is not the place to refer to such matters.

Issue iii)

10.13 I accept that there is a degree of overlap between Policy NE.1 which protects landscape character across the whole plan area and Policy NE.2 which protects the landscape of the AONBs. Policy NE.2 is necessary to reflect the national importance of these designated areas, but considerations of landscape character and local distinctiveness will need to inform the assessment of development within the AONBs to ensure that the quality of their landscape is conserved. I thus consider that the policies are sufficiently complementary to justify the application of Policy NE.1 within the AONBs as well as outside them.

Recommendation:

R10.1 Modify paragraph C2.11 to make clear that the Landscape Character Assessment SPG will be used to assess the effect of proposals on landscape character and local distinctiveness when applying Policy NE.1 to particular proposals.

Chapter C2 - Policy NE.2 and Paragraphs C2.13 and C2.14

120/B81	Ms Helen Woodley	NE.2
233/B5	Compton Dando Parish Council	NE.2
485/B13	Prowting Projects Ltd	NE.2
581/B6	Batheaston Society	NE.2
720/B5	BT Group plc	NE.2
2303/B7	Wellow Residents Association	NE.2
3002/B1	Mr & Mrs Marton	NE.2
3211/B3	Cllr M Hawkings	NE.2
3249/B8	Kingswood School	NE.2
3251/B4	Prospect Land Ltd	NE.2

Supporting Statements

1427/B114	Environment Agency	C2.13
3116/C10	Bath & North East Somerset Allotment Association	C2.14/A
2050/B5	Greenway - The Residents Forum from Lyncombe Vale to Beechen Cliff	NE.2
3116/C11	Bath & North East Somerset Allotment Association	NE.2/A
3116/C12	Bath & North East Somerset Allotment Association	NE.2/B
3116/C13	Bath & North East Somerset Allotment Association	NE.2/C
3249/C10	Kingswood School	NE.2/C

Issues

- i) Should the policy acknowledge the potential for developing sites in sustainable locations within the AONB?
- ii) Does the policy adequately protect the AONB from minor development?
- iii) Is the wording of the policy sufficiently clear and precise?

Inspector's Reasoning

10.14 I deal briefly with a number of matters raised by objectors not included in the main issues above. The policies in the plan apply to new proposals for development and cannot be used to assess whether there is continuing justification for existing development which has already been built, such as telecommunications masts in AONBs. A number of objectors seek alterations to the boundaries of the AONBs. AONBs are designated under separate statutory provisions. The Local Plan is not the mechanism to pursue changes to these boundaries. I have therefore not considered the merits of these objections as I would be unable to make recommendations on them. The RDDLP corrects an error in the position of the AONB boundary at Kingswood School playing fields, Lansdown.

Issue i)

10.15 PPS7 advocates that the highest level of protection be afforded to AONBs (paragraph 21) and Policy NE.2 accords with this advice. The policy would not preclude development in sustainable locations within the AONBs provided that any such development did not adversely affect the natural beauty of the landscape. Protecting the quality of the landscape is one aspect of sustainability. Other policies in the plan seek to guide development to the most sustainable locations and I see no need for Policy NE.2 to refer to the potential for sustainable development within the AONBs.

Issue ii)

10.16 Any proposals coming forward for development within the AONB, whether for minor or major development have to be assessed against the first part of the policy. This would not permit development adversely affecting the natural beauty of the landscape of the AONB and, in my view, it is sufficient to protect the AONB from possible harm from minor proposals.

Issue iii)

10.17 PPS7 (paragraph 22) sets out in some detail how major development proposals within an AONB should be assessed. Policy NE.2 includes only a brief summary of those considerations with slightly different wording. This provides scope for confusion and uncertainty. I consider that the policy should simply state that the advice in PPS7 will be applied to major developments both within the AONB and to those outside it which would adversely affect the designated area. With this change there would be no need to add additional explanation of the words used in the policy. I recommend accordingly.

Recommendation:

R10.2 Modify Policy NE.2 by:

deleting the 2nd paragraph and criteria (i)-(iii); and

substituting "Major development within an AONB or outside it which would harm the designated area will be determined on the basis of the advice in PPS7."

Chapter C2 - Policy NE.3 and Paragraph C2.19

There are a large number of representations to this policy; details are listed at Appendix 1

Issue

- i) Whether specific parcels of land should be included or excluded from the Important Hillside Policy?

Inspector's Reasoning

- 10.18 Consideration of the objections seeking either the extension of the areas designated under this policy or the exclusion of areas from the policy requires an assessment of the purpose and relevance of the policy.
- 10.19 The Important Hillside designation is one which is local to the District. PPS7 (paragraph 24) advocates the use of criteria based policies and tools such as landscape character assessment to provide protection for landscapes outside nationally designated areas, but valued locally. Local landscape designations should only be employed where the necessary protection cannot be provided through other means or policies and where they are rigorously justified.
- 10.20 The areas around the City of Bath designated as Important Hillside are within the World Heritage Site designation and, with one small exception, the Conservation Area. Many are also designated nature conservation sites. Thus any proposal coming forward for development would be assessed against Policies BH.1 and BH.6 and, where applicable, Policy NE.9. These designations and associated criteria based policies would, in my view, protect the landscape setting and character of Bath from potentially harmful development. Policy NE.3 adds nothing of value.
- 10.21 I appreciate that Norton-Radstock does not have the same World Heritage Site status as Bath, but the areas designated as Important Hillside are included in the landscape character assessment (character areas 15, 12 and 13). Any proposals for development in these areas would be assessed against Policy NE.1, which would provide protection from development adversely affecting the character and local distinctiveness of the landscape. The Radstock Conservation Area includes extensive open areas around the town and so this land would be protected by Policy BH.6, in particular criterion (v) which recognises the need to protect landscape contributing to the character or appearance of the conservation area. The designated hillside areas are also outside the defined HDBs and so new housing development would not normally be acceptable in such areas in any event.

10.22 Thus Policy NE.3 duplicates protection afforded by other policies in the Local Plan and I am not satisfied that there is adequate justification for this additional layer of policy protection, despite the many supporting representations. I recommend the deletion of the policy and of the designated areas on the Proposals Map. As a consequence, I do not consider the merits of the individual objections.

Recommendation:

R10.3 Modify the plan by deleting Policy NE.3, paragraphs C2.18 - C2.20 and the Important Hillside notation from the Proposals Map.

Chapter C2 - Policy NE.4, Quick Guide 13 and paragraphs C2.21-C2.26

686/B100	Bath Preservation Trust	C2.21
1427/B115	Environment Agency	C2.24
3257/C198	Somer Valley Friends of the Earth	C2.24/A
564/B21	London Road Area Residents Association	C2.25
1568/C9	The Woodland Trust	C2.26/B
1568/D20	Woodland Trust	PIC/C/9 (C2.26A)
441/B10	Mrs S F Hobbs	NE.4
2050/B3	Greenway - The Residents Forum from Lyncombe Vale to Beechen Cliff	NE.4
2448/B7	Mr J Sewart	NE.4
2466/B7	Keynsham Civic Society	NE.4
3298/B29	Cam Valley Wildlife Group	NE.4
239/C7	Country Land & Business Association	NE.4/B

Supporting Statements

1427/C206	Environment Agency	C2.24/A
3116/C16	Bath & North East Somerset Allotment Association	QG13A/A
3257/C199	Somer Valley Friends of the Earth	QG13A/A
1568/D11	Woodland Trust	PIC/C/8 (C2.26)
3116/C14	Bath & North East Somerset Allotment Association	C2.26/B
3257/C200	Somer Valley Friends of the Earth	C2.26/B
120/D338	Mrs H Woodley	PIC/C/9 (C2.26A)
1568/C6	The Woodland Trust	C2.26A/A
3107/C16	English Nature	C2.26A/A
3116/C15	Bath & North East Somerset Allotment Association	C2.26A/A
3257/C201	Somer Valley Friends of the Earth	C2.26A/A
120/D339	Mrs H Woodley	PIC/C/10 (NE.4)
376/B9	Mr I Wallis	NE.4
878/B26	The Bath Society	NE.4
1568/D22	Woodland Trust	PIC/C/10 (NE.4)
3126/D54	Bath Friends of the Earth	PIC/C/10 (NE.4)
3257/D281	Somer Valley Friends of the Earth	PIC/C/10 (NE.4)
3116/C17	Bath & North East Somerset Allotment Association	NE.4/A
1568/C7	The Woodland Trust	NE.4/B
3116/C18	Bath & North East Somerset Allotment Association	NE.4/B
3116/C19	Bath & North East Somerset Allotment Association	NE.4/C
3513/C1	Ms M Gibbon	NE.4/C

Issues

- i) Whether sufficient protection is afforded to ancient woodland.

- ii) Whether the policy should encourage tree and woodland planting generally in the District and/or on particular sites.
- iii) Whether the plan adequately protects veteran trees and historic parkland.
- iv) Whether the policy should allow exceptions if there is an over-riding justification.

Inspector's Reasoning

10.23 Amendments made in the RDDLP met some objections, including reference to Alder root disease and an explanation of trees in conservation areas in Quick Guide 13A. But I conclude elsewhere in this report that the Quick Guides should be deleted from the plan. Essential information within the Quick Guides should be incorporated into the main text. I consider that only a brief reference is required to the protection of trees in conservation areas; for more detailed information the reader should be directed to relevant information elsewhere, either published by the Council or by the ODPM and its predecessors. The Local Plan is not the place for lengthy descriptions of legal and procedural matters.

10.24 I address later the objection seeking amendments to the Forest of Avon boundary. An objector questions whether the development proposed in the DDLP on site K2 would be compatible with Policy NE.4, but they do not seek any amendment to the latter and I do not comment further on this objection here.

Issue i)

10.25 Ancient woodland would come within the broad remit of Policy NE.4 (i) and most ancient woodlands are also designated as SNCI. Absolute protection of ancient woodland would, however, be contrary to national advice. The deletion of the word "generally" from paragraph C2.26 (PIC/C/8) ensures a clear recognition of their importance for wildlife. Further amendments to the policy or text are unnecessary.

Issue ii)

10.26 The Council has no legislative control over the felling or planting of trees not protected by a Tree Preservation Order or outside conservation areas. It is not possible for the Council to require replacement trees wherever trees are lost and an amendment of the policy to seek such replacement would serve no purpose. Provision for new planting and replacement trees can be secured in association with new development where justified by the consequences of the development and the nature of the site. In my view, Policy NE.4 is adequate to secure such provision where it can be justified. The Landscape Character Assessment SPG refers to trees and hedgerows in the landscape and can be used to guide the design of new or replacement planting consistent with landscape character. The promotion of tree planting unrelated to development proposals should be addressed outside the Local Plan, such as in the programme for the Forest

of Avon or the management plans for the AONBs. I see no need to add further guidance in the plan.

Issue iii)

10.27 Changes were made in the RDDLP to refer to veteran trees. Policy NE.4 now has a criterion specifically affording protection to veteran trees. I recognise that the latter stages of the life of an ancient/veteran tree are the richest in terms of ecology, landscape and culture, but paragraph C2.26A, PIC/C/9 and Policy NE.4 reflect the importance attached to such trees and I consider that no further explanation is necessary.

10.28 Historic parklands are covered by Policy BH.9. I appreciate that there are often veteran trees found within such parklands, but they also exist elsewhere. Veteran trees and historic parkland are both likely to be of nature conservation value, but I consider that the policies of the plan protecting nature conservation interests afford sufficient protection to the nature conservation value of these particular features. It is important that the plan is read as a whole and it is not necessary for individual policies to cover all considerations that might be material. I see no need for a policy combining these topics.

Issue iv)

10.29 Section 38(6) of the Planning and Compulsory Purchase Act (previously s.54A of the Town and Country Planning Act), makes provision for exceptions to be made to development plan policies. Whether there are material considerations to outweigh any policy conflict is a judgment to be made on specific proposals and does not need to be highlighted in this or other policies.

Recommendations:

R10.4 Modify the plan by deleting Quick Guide 13A.

R10.5 Modify paragraph C2.25 by inserting a reference to the protection afforded to trees in conservation areas and where further information can be found.

Chapter C2 - Policy NE.5 and Paragraphs C2.28-C2.30

441/B11	Mrs S F Hobbs	NE.5
2959/B1	Mr L F James	NE.5
3085/B1	Yardbrook Estates	NE.5
3139/B1	Ms D Davis	NE.5

Supporting Statements

S574/C19	Forest of Avon	C2.28/A
S574/C20	Forest of Avon	C2.29/A
S574/C18	Forest of Avon	C2.30/A
S878/B27	The Bath Society	NE.5

Issues

- i) Whether the boundary of the Forest of Avon should be amended.
- ii) Whether the policy should be more flexibly worded.

Inspector's Reasoning

10.30 I deal briefly with matters not covered by the above main issues. An objector is concerned that Highfield House, Chew Magna has insufficient protection and seeks, in part, the reinstatement of a local landscape designation used in the Wandsdyke Local Plan. This is not an objection to Policy NE5. But in any case, I consider that the landscape protection based on Policy NE.1 and landscape character is the appropriate approach rather than local landscape designations. I understand that this particular house is within the Green Belt and outside the housing development boundary and so development is tightly controlled in this area. An objector questions whether the development proposed in the DDLP on site K2 would be compatible with Policy NE.5, but they do not seek any amendment to the latter and I do not comment further on this objection.

Issue i)

10.31 The Forest of Avon is designated not through the local plan process, but by the Forest Plan approved by Government in 1995 (as stated in Paragraph C2.29 of the Plan). I am unable to make recommendations about the boundary. Even if the boundary were to be deleted from the Proposals Map, the Forest of Avon would still encompass the objectors' sites. Nevertheless, the existence of the Forest of Avon may be a material consideration in planning decisions. Since Policy NE.5 applies specifically to the Forest of Avon, I consider that it is necessary for the boundary to be shown on the Proposals Map.

Issue ii)

10.32 Policy NE.5 requires development within the Forest of Avon to meet 2 criteria; firstly, to respect the existing and developing woodland setting and, secondly, to contribute to the implementation of the Forest Plan, particularly through tree planting. I consider that the first criterion is reasonable and fairly applies to all developments. But it is unreasonable to apply the 2nd in the inflexible way set out in the policy. For many developments, especially smaller developments, contribution to the implementation of the Forest Plan may be neither justified nor practical. I note that the Forest of Avon's own comments on this policy questioned its acceptability.

10.33 I consider that the policy should require all development not to conflict with the relevant local strategies of the Forest Plan and to take it into account in the layout of development, including landscaping. I recommend accordingly. I note from paragraph A4.29 that the Council intend to prepare SPG on "Planning and the Forest of Avon – Guide for developers". If its publication is imminent, and assuming that such SPG

would be directly related to Policy NE.5, then reference should be made to that document rather than the Forest Plan.

Recommendation

R10.6 Modify Policy NE.5 by deleting criterion ii and substituting

"ii) does not conflict with the local strategies of the Forest Plan and has regard to its aims in the layout of development, including landscaping" (or, if the Council is about to publish SPG "Planning and the Forest of Avon" - reference should be made to that document instead).

Chapter C2 - Policy NE.6, Quick Guide 14 and Paragraphs C2.32-C2.41

461/B13	Hinton Blewett Parish Council	C2.33
3298/B6	Cam Valley Wildlife Group	C2.33
1427/B116	Environment Agency	C2.34
1427/B117	Environment Agency	C2.35
3116/C112	Bath & North East Somerset Allotment Association	C2.40A/A
3116/C128	Bath & North East Somerset Allotment Association	C2.40A/A
3257/C208	Somer Valley Friends of the Earth	C2.40A/A
3257/C207	Somer Valley Friends of the Earth	C2.41/A
115/B3	Waterside Action Group	NE.6
3146/B1	Ms E O'Donnell & Mr P McKendry	NE.6

Supporting Statements

574/C17	Forest of Avon	C2.32/A
1427/C207	Environment Agency	C2.34/A
3116/C45	Bath & North East Somerset Allotment Association	C2.34/A
3257/C202	Somer Valley Friends of the Earth	C2.34/A
3116/C130	Bath & North East Somerset Allotment Association	Quick Guide 14/A
3107/C17	English Nature	C2.35/A
3116/C46	Bath & North East Somerset Allotment Association	C2.35/A
3257/C203	Somer Valley Friends of the Earth	C2.35/A
3511/C14	British Waterways	C2.35/A
3257/C204	Somer Valley Friends of the Earth	C2.40/A
3257/C205	Somer Valley Friends of the Earth	C2.40/B
3257/C206	Somer Valley Friends of the Earth	C2.40/C
3107/C18	English Nature	C2.40A/A
120/B111	Ms Helen Woodley	NE.6
3298/B37	Cam Valley Wildlife Group	NE.6
3257/C209	Somer Valley Friends of the Earth	NE.6/A

Comments on Suggested Unadvertised Inquiry Change IC12

3116/F154	Bath & North East Somerset Allotments Association	IC12 (C2.40A)
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Issues

- i) Whether additional explanation relating to biodiversity and particular species should be added to the text.
- ii) Whether protection should be afforded to additional sites under Policy NE.6.

Inspector's Reasoning

10.34 In accordance with my recommendations elsewhere in this report, QG 14 should be deleted. Rather than include a description of biodiversity, it would be sufficient to refer to the Council's Biodiversity Action Plan.

Issue i)

10.35 In considering the wide-ranging objections seeking additional references and explanation to be added to the text of the plan, I am mindful that the purpose of the supporting text is to provide a succinct reasoned justification for the plan's policies and proposals. In this context, generalised discussion of biodiversity issues should be minimised. Given the range and complexity of legislation and procedures covering the protection of species and habitats, a full explanation would introduce excessive detail. It is not necessary to refer to "no net loss of biodiversity".

10.36 Reference is made in paragraph C2.36 to the national and local Biodiversity Action Plans (BAP). The effect of a development on habitats or species listed as priorities in the UK BAP and the local BAP ("Wildthings") would be a consideration under Policy NE.11. I consider that additional references to BAPs are unnecessary.

10.37 Changes made in the RDDLP have met, or largely met, objections seeking reference to the loss of native species, Bechstein bats and to the structures and feeding grounds used by bats. I consider further the adequacy of policies for the protection of bats under Policy NE.7 below.

10.38 Incentives to manage and improve habitats are outside the scope of the plan. The Local Plan cannot require developers to enhance and maintain nature conservation areas. But such work can be negotiated and secured through planning conditions or planning agreements, providing that such arrangements meet the relevant tests in national advice.

Issue ii)

10.39 The objectors seek additional sites to be protected. But Policy NE.6 affords protection to those sites designated under European legislation. This is the highest level of protection and is afforded only to those sites which meet specific criteria. It is not the role of the local planning authority to identify and designate sites for protection under this legislation. Thus, it would not be appropriate to afford protection under Policy NE.6 to the areas identified by objectors.

10.40 Having considered the purpose of Policy NE.6, I am of the view that it is unnecessary, since there is statutory protection of European sites and species and this statutory regime has to be applied whether or not the local plan refers to it. This point was made in the consultation draft of PPS9 (September 2004). Furthermore, unless the local plan policy exactly reproduces the requirements of legalisation, it may imply some derogation from the statutory arrangements, which would not be lawful. I therefore

recommend its deletion. Nevertheless, European sites should still be shown on the Proposals Map.

Recommendations:

R10.7 Delete Policy NE.6 and amend the text of the plan to explain why a specific policy in the plan for European sites is unnecessary.

R10.8 Delete QG 14 and reference to it in paragraph C2.33. Refer to the B&NES Biodiversity Action Plan 2000 at the end of paragraph C2.33.

Chapter C2 - Policy NE.7

120/D340	Mrs H Woodley	PIC/C/13 (NE.7)
2648/B2	Persimmon Homes (Wessex) Ltd	NE.7
3107/B2	English Nature	NE.7
3107/B5	English Nature	NE.7
3107/D39	English Nature	PIC/C/13 (NE.7)
3251/B3	Prospect Land Ltd	NE.7
3257/D284	Somer Valley Friends of the Earth	PIC/C/13 (NE.7)
3298/B30	Cam Valley Wildlife Group	NE.7
3298/D88	Cam Valley Wildlife Group	PIC/C/13 (NE.7)
3107/C22	English Nature	NE.7/A
3213/C3	Chew Stoke Parish Council	NE.7/A
3257/C210	Somer Valley Friends of the Earth	NE.7/A
3298/C59	Cam Valley Wildlife Group	NE.7/A
3213/C4	Chew Stoke Parish Council	NE.7/D
120/C136	Ms Helen Woodley	NE.7/G

Supporting Statements

120/B112	Ms Helen Woodley	NE.7
455/B16	Avon Wildlife Trust	NE.7
3126/D55	Bath Friends of the Earth	PIC/C/13 (NE.7)
120/C241	Ms Helen Woodley	NE.7/D
2854/C3	Monkton Combe Parish Council	NE.7/E

Issues

- i) Whether the policy provides adequate protection for bats.
- ii) Whether the Bat Protection Zones should be retained or amended.

Inspector's Reasoning

Issue i)

10.41 Changes were made in the RDDLP in response to objections relating to bat protection, some of which have met objector's concerns. Many of the outstanding objections relate to detailed matters of wording. But I cannot properly address these without considering the wider context of the policy. As I highlight in relation to Policy NE.6, it is neither necessary nor good practice for local plans to contain policies for the protection of species and sites which have statutory protection through international

conventions and European Directives, although such sites should be identified on the Proposals Map.

- 10.42 Horseshoe Bats are protected by Schedule 5 of the Wildlife and Countryside Act (1981) and Regulation 39 of the Habitats Regulations (1994). The main areas inhabited by the bats are candidate SACs and are protected through European legislation. Thus, in my view, the protection afforded to Horseshoe Bats by Policy NE.7 duplicates the statutory regime.
- 10.43 Bechstein's Bats are listed as Species of Principal Importance under Section 74 of the Countryside and Rights of Way Act 2000. These species do not receive the same statutory protection as Horseshoe Bats and it would normally be appropriate for local plans to contain policies to protect the habitats of these species. But in B&NES the habitats of this species overlap with those of the Horseshoe Bats and thus gain the same statutory protection as a result. Provided that there are no known communities of Bechstein's Bats outside those also occupied by Horseshoe Bats, then I consider that Policy NE.7 can and should be deleted.

Issue ii)

- 10.44 I am concerned that the bat protection zones defined on the Proposals Map could be interpreted as the maximum extent of the area afforded protection, but proposals anywhere which may potentially adversely affect the structures, feeding grounds or features used by bats, should be subject to the same considerations, whether or not the proposal lies within the protection zone. I recognise that the zones have been defined on the best available evidence from English Nature, but the Council highlights that Policy NE.10 would afford protection to the feeding grounds of bats outside the protection zones and so clearly recognises that the zones are not the only areas where proposals need to take into account the effect on bats. There is duplication between Policy NE.7 and the overarching protection afforded by Policy NE.10.
- 10.45 Furthermore, whilst the publication of information on the locations of the bat communities and their feeding and roosting habits is undoubtedly essential for the proper assessment of development proposals, I consider that this information is too detailed for a local plan and adds further complexity to a Proposals Map which already has many overlapping notations. It would be better to provide such detailed information in an SPD and such a document could also usefully contain further advice on how development proposals should be assessed. In this way, the bat protection zones would be put into a proper context as an aid to the assessment of effects on bats. Therefore, I recommend that the Bat Protection Zones be deleted.
- 10.46 In the light of my fundamental concerns underlying this policy and the protection zones I do not address further the detailed objections.

Recommendations:

R10.9 Subject to the Council being satisfied that the feeding grounds and landscape features used by Bechstein's Bats overlap with those of Horseshoe Bats, delete Policy NE.7. (If not, retain the policy for Bechstein Bats only without reference to bat protection zones).

R10.10 Delete the Bat Protection Zones from the Proposals Map.

R10.11 Modify paragraph C2.40A to reflect the above changes.

R10.12 Consider including bat protection zones and further information on the assessment of development proposals on bats in SPD (such as that on habitats and species which the Council propose to prepare).

Chapter C2 - Policy NE.8 and Paragraph C2.42

3007/B5	Grant Thornton	NE.8
3298/B28	Cam Valley Wildlife Group	NE.8
3257/C213	Somer Valley Friends of the Earth	NE.8/A
3298/C65	Cam Valley Wildlife Group	NE.8/A

Supporting Statements

120/C237	Ms Helen Woodley	C2.42/A
1427/C208	Environment Agency	C2.42/A
3107/C19	English Nature	C2.42/A
3257/C211	Somer Valley Friends of the Earth	C2.42/A
3298/C64	Cam Valley Wildlife Group	C2.42/A
120/B113	Ms Helen Woodley	NE.8
120/D341	Mrs H Woodley	PIC/C/14 (NE.8)
685/D50	Batheaston Parish Council	PIC/C/14 (NE.8)
3107/D40	English Nature	PIC/C/14 (NE.8)
3126/D56	Bath Friends of the Earth	PIC/C/14 (NE.8)
3298/D89	Cam Valley Wildlife Group	PIC/C/14 (NE.8)
120/C236	Ms Helen Woodley	NE.8/A

Issues

- i) Is protection from "indirect effects" too restrictive?
- ii) Should the plan distinguish between biological and geological SSSIs?
- iii) Is the requirement for "compensatory provision" sufficiently robust?

Inspector's Reasoning

Issue i)

10.47 Development occurring outside the boundary of an SSSI can be as damaging as development occurring within its boundary. Thus it is important for such indirect adverse effects to be assessed against the

same policy criteria as development within an SSSI. In my view, the aim of the policy is clear, but for the avoidance of doubt the wording should be amended to refer to "adverse" effects, consistent with other policies in this Chapter. An assessment would have to be made on a case-by-case basis as to whether a proposed development would be likely to have an adverse effect on a nearby SSSI.

Issue ii)

10.48 SSSIs benefit from the same protection whether they are designated for their geological or biological importance and I can see no good reason to distinguish between them in the policy.

Issue iii)

10.49 Several changes have been made to the wording of criterion ii of the policy which appear largely to have met the concerns of objectors regarding any compensatory provision. In my view, the phrase "of at least equal nature conservation value" provides a robust basis to ensure that there is no net loss of biodiversity. Further elaboration is unnecessary.

10.50 Subject to the one change I recommend below, I consider that the policy provides clear protection for SSSIs consistent with national advice and that it is not necessary to refer to the statutory provisions in the Wildlife and Countryside Act.

Recommendation:

R10.13 Modify Policy NE.8 by adding "adversely" before "affect" in the first sentence.

Chapter C2 - Policy NE.9, Quick Guide 15 and Paragraph C2.43

120/D350	Mrs H Woodley	PIC/C/16 (C2.43)
1427/B118	Environment Agency	C2.43
3257/D285	Somer Valley Friends of the Earth	PIC/C/16 (C2.43)
3298/D90	Cam Valley Wildlife Group	PIC/C/16 (C2.43)
3298/D92	Cam Valley Wildlife Group	PIC/C/17 (QG15)
447/B38	Wilcon Homes	NE.9
461/B15	Hinton Blewett Parish Council	NE.9
564/B20	London Road Area Residents Association	NE.9
580/B9	Hignett Brothers	NE.9
580/B11	Hignett Brothers	NE.9
580/B13	Hignett Brothers	NE.9
580/B14	Hignett Brothers	NE.9
745/B15	South Stoke Parish Council	NE.9
878/B28	The Bath Society	NE.9
1427/B119	Environment Agency	NE.9
1871/B3	Mr M Horsford	NE.9
1983/B1	Bathwick Hill Residents' Association	NE.9
2323/B1	Read Renewable Resource	NE.9
2448/B8	Mr J Sewart	NE.9

2965/B5	Morley Fund Management Limited	NE.9
3003/B3	London Baptist Property Board Ltd	NE.9
3081/B3	Mr D Hall	NE.9
3298/B31	Cam Valley Wildlife Group	NE.9
3298/B4	Cam Valley Wildlife Group	NE.9
3305/B4	W Reed (Builders) Ltd	NE.9
3257/C212	Somer Valley Friends of the Earth	NE.9/A
3298/C66	Cam Valley Wildlife Group	NE.9/A
3116/C113	Bath & North East Somerset Allotment Association	NE.9/O

Supporting Statements

3126/D57	Bath Friends of the Earth	PIC/C/15 (C2.43)
2997/B8	London Road & Snowhill Partnership	NE.9
120/B114	Ms Helen Woodley	NE.9
120/D362	Mrs H Woodley	PIC/C/18 (NE.9)
2050/B2	Greenway - The Residents Forum from Lyncombe Vale to Beechen Cliff	NE.9
3107/D41	English Nature	PIC/C/18 (NE.9)
3126/D58	Bath Friends of the Earth	PIC/C/17 (NE.9)
3173/B3	Bloomfield Road Residents Association	NE.9
3257/D286	Somer Valley Friends of the Earth	PIC/C/18 (NE.9)
3298/B16	Cam Valley Wildlife Group	NE.9
3298/D93	Cam Valley Wildlife Group	PIC/C/18 (NE.9)
2915/C4	De La Rue plc	NE.9/G
3116/C114	Bath & North East Somerset Allotment Association	NE.9/N
120/C240	Ms Helen Woodley	NE.9/P
3305/C5	W Reed (Builders) Ltd	NE.9/Q
120/C277	Ms Helen Woodley	NE.9/S

Issues

- i) Whether the text should refer to additional types of habitat.
- ii) Whether the criteria and process for identification of SNCIs is adequate.
- iii) Whether SNCIs are correctly shown on the Proposals Map and whether sites should be added or deleted.
- iv) Whether the wording of the policy is clear.

Inspector's Reasoning

Issue i)

10.51 Objectors seek the inclusion of additional habitat types in the description of locally important sites, such as orchards, old railway lines and canals. Paragraph C2.43 lists some of the types of habitats that are present in the District, but it is clear that it is not intended as an exhaustive list of all the habitats or locations which might be of nature conservation importance. I see no reason why it needs to be definitive of all habitat types. The potential nature conservation value of other types of habitats and features is highlighted in paragraphs C2.49 and C2.50. Undue repetition needs to be avoided.

Issue ii)

10.52 SNCIs are identified by a process of site survey and assessment by local experts in accordance with established criteria and processes set out in "Natural Assets in Avon" (1995) (CD2.1.8). That work has been on-going for some time and, to a large extent, is separate from the local plan process. SNCIs can be identified by the Council without inclusion within the Local Plan. It is not for me to review or make recommendations on procedures not directly connected with the Local Plan.

10.53 But in my view, the Local Plan does not explain clearly how SNCIs have been identified and confirmed or where the descriptions of the nature conservation value and reasons for the identification of each SNCI is to be found. This lack of explanation accounts for some of the objections relating to this issue. Quick Guide 15 is a reference to only part of the process and, in isolation, is unhelpful. In any case, I have recommended elsewhere in this report that Quick Guides be deleted and any essential reasoning be incorporated into the main text.

10.54 I consider that the plan should explain clearly, but briefly, how SNCIs are identified and confirmed, indicating where the selection criteria and process is set out, but without reproducing any of those criteria. The plan should explain where the individual site records (detailed boundaries and descriptions of nature conservation value) can be found. It should also explain that further sites may be confirmed as SNCIs subsequent to the adoption of the plan.

10.55 I have not seen evidence to indicate that the process and criteria by which SNCIs have been identified and confirmed are fundamentally flawed. I therefore consider that reference to SNCIs is a reasonable basis to protect sites of local nature conservation value.

Issue iii)

10.56 As indicated above, SNCIs have been identified and confirmed largely outside the local plan process. My understanding is that existing SNCIs have been reviewed as part of the preparation of the plan and in response to site specific objections, but that this has not involved any new surveys on site. I consider that it is appropriate for the Local Plan to identify those sites which have already been identified as having local nature conservation value and that the Proposals Map should show all confirmed SNCIs.

10.57 I see no need for the Proposals Map to distinguish between sites designated for their biological interest and those designated for their geological interest (RIGS). The reasons for the designation of any particular site would be clear only from an inspection of the site designation record, which is why I consider that the plan should make clear where this information can be found.

- 10.58 Some objectors seek the inclusion of additional sites on the Proposals Map. Other objectors seek the deletion of sites either because the confirmed SNCI boundaries are not shown accurately or because the site is not considered to have the nature conservation value ascribed to it. A number of deletions and amendments to the boundaries of SNCIs were made in the RDDLP which meet some of these objections. But it is not always clear to me whether these changes were because the Council accepted that the SNCIs boundaries were incorrectly shown or that inclusion within an SNCI was unreasonable (such as the inclusion of residential curtilages) or otherwise not justified. It is also not clear whether an amendment to the boundary of an SNCI on the Proposals Map has triggered any change to the information on that SNCI held by the Bristol Regional Environmental Records Centre (BRERC) or elsewhere.
- 10.59 In general, I do not have the evidence to thoroughly review whether objection sites (deletions and additions) meet the SNCI selection criteria. In addition, I consider that it would lead to confusion and uncertainty if sites were to be deleted or added to the Proposals Map without being properly identified and confirmed (or deleted) from information held elsewhere, particularly BRERC.
- 10.60 Any site which meets the SNCI criteria, but is not shown on the Proposals Map would nonetheless be protected by Policy NE.9 ("other sites of equivalent nature conservation value") and so identification on the Proposals Map is not essential. I acknowledge that there may be errors in the designation of sites. Some sites may have been surveyed some years ago and their nature conservation value may have declined or been lost. If and when a planning application is submitted, there would be the opportunity for the developer to demonstrate that the site (or part of a site) did not have the nature conservation value ascribed to it or that a particular form of development would not harm any nature conservation value.
- 10.61 The aim of the policy is the protection of nature conservation value rather than the protection of sites as such. I consider that the wording of the policy should be amended to make this clear and that with such an amendment the policy would apply only to those sites which had nature conservation value, rather than those designated in error or where any such value had been lost.
- 10.62 For the reasons set out above, I do not recommend any changes to the notation on the Proposals Map.

Issue (iv)

- 10.63 Changes were made in the RDDLP in response to objections concerning the clarity of wording in the policy. The term "local value" has been supplemented with "biological and community/amenity value" of a site. I consider this adds clarification, except that since SNCIs include regionally important geological and geomorphological sites reference should also be

made to these since they would not be encompassed within "biological value". I recommend accordingly.

10.64 The factors to be taken into account in decision-making will vary on a case by case basis. The policy establishes the principles to be addressed by the decision maker, but it cannot set out what the material considerations will be in each case or how they should be weighed. No further explanation is required.

10.65 An objector has given no reason as to why they oppose criterion (ii) and thus I cannot give this objection further consideration.

10.66 The local plan cannot require a developer to maintain and improve habitats, but such matters can be negotiated at the development control stage and, where appropriate, secured through either conditions or planning obligations. In my view, the policy does not need to be expanded to encompass this possibility.

10.67 I consider that the term "equal value" is understandable and clear and that no suggested alternative wording is preferable.

Recommendations:

R10.14 Delete Quick Guide 15 and add to the text: an explanation of where the selection criteria and confirmation process for SNCIs is set out; where the description of each SNCI and large scale plan of their boundaries can be found; and to highlight that further SNCIs may be identified and confirmed which are not shown on the Proposals Map.

R10.15 Modify Policy NE.9 by:

inserting after "indirectly", "the nature conservation value of"; and

inserting in criterion i after "biological", "geological/geomorphological".

Chapter C2 - Policy NE.10

Supporting Statements

120/B115	Ms Helen Woodley	NE.10
3298/B38	Cam Valley Wildlife Group	NE.10

Chapter C2 - Policy NE.11 and Quick Guide 15A

3298/D94	Cam Valley Wildlife Group	PIC/C/20 (QG15A)
2448/B9	Mr J Sewart	NE.11
3298/B35	Cam Valley Wildlife Group	NE.11
3257/C215	Somer Valley Friends of the Earth	NE.11/B
3298/C67	Cam Valley Wildlife Group	NE.11/B

Supporting Statements

3257/C214	Somer Valley Friends of the Earth	QG15A/A
3298/C68	Cam Valley Wildlife Group	QG15A/A
3511/C15	British Waterways	QG15A/A
120/B116	Ms Helen Woodley	NE.11
120/D360	Mrs H Woodley	PIC/C/22 (NE.11)
120/D361	Mrs H Woodley	PIC/C/22 (NE.11)
3107/D42	English Nature	PIC/C/22 (NE.11)
3126/D60	Bath Friends of the Earth	PIC/C/22 (NE.11)
3298/D95	Cam Valley Wildlife Group	PIC/C/22 (NE.11)

Issues

- i) Whether the species covered by the policy are clearly defined.
- ii) Whether the plan adequately protects areas designated in the Wansdyke Local Plan.
- iii) Is the wording of the policy clear.

Inspector's Reasoning

Issue i)

10.68 The plan should clearly indicate on what basis/criteria “locally important species and their habitats” have or will be identified. Quick Guide 15A was inserted into the RDDLP in response to objections concerning a lack of clarity. But the Guide refers, among other matters, to European Protected Species and Habitats in the Habitats Directive, which are protected by other legislation and, currently, other policies in the plan. The list is not sufficiently focussed on the locally important species and their habitats which are the subject of Policy NE.11. Inquiry Change 18 proposes the deletion of the reference to European Protected Species, but the Council should ensure that the list avoids any overlap with other policies.

10.69 I recommend elsewhere in my report that the Quick Guides should be removed from the plan and any necessary text be integrated into the reasoned justification. The plan should explain the basis on which locally important species will be identified. I note that the Council has stated that they are to propose to prepare SPD on Priority Species and Habitats. This is the appropriate place for more detailed information, and should be referred to in the text, provided that the Council indeed to produce such SPD in the near future.

Issue ii)

10.70 An objector seeks a policy similar to LNC.8 in the Wansdyke Local Plan. The latter protects areas of local landscape and nature conservation interest. In accordance with national advice, the RDDLP does not have local landscape designations (other than Protected Hillside which I recommend is deleted) but seeks to protect the landscape by means of a character area approach. Inevitably, sites previously identified in the

Wandsdyke Local Plan may not be highlighted on the Proposals Map of the RDDLP, but I consider that the combination of landscape and nature conservation policies would provide at least a comparable level of protection. No additional policy or notation on the Proposals Map is needed.

Issue iii)

10.71 I consider that, subject to my recommended changes, the text of the plan would provide an adequate explanation of what is meant by the term "local" importance. Further detail could be included in the forthcoming SPD. An objector seeks reassurance that the term "local importance" includes regional or nationally important sites and species. But this would include sites/species protected by statutory arrangements and/or other policies in the plan and is therefore not appropriate here.

10.72 The aim of the policy is to avoid local species being adversely affected by development. Ensuring the survival of such species is an underlying objective and there is no need for this to be expressly stated. Changes made in the RDDLP meet other objections to the wording of the policy.

Recommendations:

R10.16 Delete QG 15A.

R10.17 Modify paragraph C.248 to explain how species of local importance will be identified and to make reference to the proposed SPD on Priority Species and Habitats (if the Council intend to produce such SPD in the near future).

Chapter C2 - Policy NE.12 and Paragraphs C2.49 and C2.53

1427/B120	Environment Agency	C2.53
120/B79	Ms Helen Woodley	NE.12
1427/B121	Environment Agency	NE.12
2448/B10	Mr J Sewart	NE.12
3298/B24	Cam Valley Wildlife Group	NE.12
3257/C218	Somer Valley Friends of the Earth	NE.12/C
1568/C8	The Woodland Trust	NE.12/D

Supporting Statements

120/D364	Mrs H Woodley	PIC/C/21 (C2.49)
3126/D59	Bath Friends of the Earth	PIC/C/21 (C2.49)
376/B10	Mr I Wallis	NE.12
3107/D43	English Nature	PIC/C/23 (NE.12)
3126/D61	Bath Friends of the Earth	PIC/C/23 (NE.12)
3116/C22	Bath & North East Somerset Allotment Association	NE.12/A
3257/C216	Somer Valley Friends of the Earth	NE.12/A
3116/C23	Bath & North East Somerset Allotment Association	NE.12/B
3257/C217	Somer Valley Friends of the Earth	NE.12/B
3511/C16	British Waterways	NE.12/B
1427/C209	Environment Agency	NE.12/C
3116/C24	Bath & North East Somerset Allotment Association	NE.12/C

3116/C25 Bath & North East Somerset Allotment Association

NE.12/D

Issues

- i) Whether the policy should refer to other objectives and features.
- ii) Whether the policy should acknowledge that some habitats are irreplaceable.

Inspector's Reasoning

Issue i)

10.73 Changes have been made to the text and the policy which meet the concerns of some objectors, including reference to watercourse "corridors" and "features which contribute to a wider network of habitats".

10.74 The objective of criterion (ii) of the policy is to secure the creation of new features and habitats. This is something that must be negotiated on a case-by-case basis. The policy and the reasoned justification provide scope for negotiating measures to enhance landscape features/habitats where appropriate. I consider that no additional wording is necessary to secure such opportunities. The Council indicates that guidance on the type and nature of habitats to be created under criterion (ii) will be provided in SPD. Reference to this proposed guidance should be made in the plan provided that the Council intend to produce such SPD in the near future. I recommend accordingly.

10.75 The objective of this policy is to protect specific features of the landscape which are important in terms of amenity, wildlife and landscape value. Areas used for local food production could, depending on their nature and circumstances, come within the scope of other policies such as Policy NE.16 (the best agricultural land) or Policy CF.8 (allotments). It would be inconsistent with the main purpose of Policy NE.12 to refer to local food production.

10.76 This policy is designed to safeguard features of the landscape and would be likely to encompass some of the specific features within the local designations in the Wandsdyke Local Plan (if they are not covered by other policies in this Chapter). It is not necessary for specific sites and features to be identified on the Proposals Map in order to be subject to this policy.

10.77 The reference to "major" in criterion (iii) of the policy is in accordance with Article 10 of the Habitats Directive 92/43/EEC, and I consider that no change is required in respect of this issue.

Issue ii)

10.78 I appreciate that some habitats, such as ancient woodland, take many years to develop and are thus almost impossible to recreate. In my view, the policy does not need to explicitly refer to this matter since criterion b

provides an adequate basis on which to judge whether any proposed compensation is adequate and acceptable. Ancient woodland in the district is generally identified as an SNCI and protected by Policy NE.9, which refers to compensatory provision "of at least equal nature conservation value". If this cannot be secured, the development would conflict with the policy.

Recommendations:

R10.18 Modify paragraph C2.52 to refer to the proposed SPD on Priority Species and Habitats (if the Council intend to produce such SPD in the near future).

Chapter C2 - Policy NE.13 and Paragraphs C2.55 and C2.56A

1427/B127	Environment Agency	C2.55
3257/C219	Somer Valley Friends of the Earth	C2.56/A
3298/C71	Cam Valley Wildlife Group	C2.56/A
2695/B3	The Springs Foundation	NE.13

Supporting Statements

120/D359	Mrs H Woodley	PIC/C/24 (C2.56)
1427/C210	Environment Agency	C2.56/A
3116/C26	Bath & North East Somerset Allotment Association	C2.56/A
3257/D308	Somer Valley Friends of the Earth	PIC/C/24 (C2.56)
3298/D96	Cam Valley Wildlife Group	PIC/C/24 (C2.56)
1427/C211	Environment Agency	C2.56A/A
3116/C27	Bath & North East Somerset Allotment Association	C2.56A/A
3126/D62	Bath Friends of the Earth	PIC/C/24 (C2.56A)
3257/C220	Somer Valley Friends of the Earth	C2.56A/A
2585/B7	Wessex Water	NE.13
1427/C212	Environment Agency	NE.13/A
2585/C12	Wessex Water	NE.13/A
3257/C221	Somer Valley Friends of the Earth	NE.13/A

Inspector's Reasoning

10.79 I consider that the changes already made by the Council in the RDDLP adequately address the concerns of objectors and that no modifications are needed.

Recommendation: no change.

Chapter C2 - Policy NE.13A and Paragraphs C2.56B-C2.56D

3257/C222	Somer Valley Friends of the Earth	NE.13A/A
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Supporting Statements

120/C276	Ms Helen Woodley	C2.56B/A
120/C275	Ms Helen Woodley	C2.56C/A
120/C274	Ms Helen Woodley	C2.56D/A

1427/C213	Environment Agency	C2.56D/A
1427/D221	Environment Agency	PIC/C/26 (C2.59)
1427/C215	Environment Agency	C2.58A/A
120/C151	Ms Helen Woodley	NE.13A/A
1427/C214	Environment Agency	NE.13A/A
3116/C28	Bath & North East Somerset Allotment Association	NE.13A/A
120/C152	Ms Helen Woodley	NE.13A/B
3116/C29	Bath & North East Somerset Allotment Association	NE.13A/B
3116/C30	Bath & North East Somerset Allotment Association	NE.13A/C
3116/C31	Bath & North East Somerset Allotment Association	NE.13A/D
3116/C32	Bath & North East Somerset Allotment Association	NE.13A/E
3257/C223	Somer Valley Friends of the Earth	NE.13A/E

Inspector's Reasoning

10.80 The only objection is a comment which does not seek any immediate change to the policy. The Council have noted this comment.

Recommendation: no change.

Chapter C2 - Policy NE.14, Paragraphs C2.57 and C2.59 and Diagram 12

1427/B122	Environment Agency	C2.57
120/D343	Mrs H Woodley	PIC/C/26 (C2.59)
345/B29	Freshford Parish Council	NE.14
578/B89	Norton Radstock Town Council	NE.14
723/B32	Bath Chamber of Commerce	NE.14
1427/B123	Environment Agency	NE.14
2326/B1	Mr C B Bentley	NE.14
2368/B3	Surrey & Counties (Sutton) Limited	NE.14
3004/B1	The Renrod Motor Group	NE.14
3004/B3	The Renrod Motor Group	NE.14
3004/B5	The Renrod Motor Group	NE.14
3007/B3	Grant Thornton	NE.14
3230/B1	Countryside Residential (South West) Ltd	NE.14
345/C32	Freshford Parish Council	NE.14/B
120/D346	Mrs H Woodley	PIC/C/29 (NE.14)
1427/D219	Environment Agency	PIC/C/29 (NE.14)
3533/D25	Network Rail Infrastructure Ltd	PIC/C/29 (NE.14)
3644/D1	Henrietta Park Residents' Association	PIC/C/29 (NE.14)
3653/D7	Peter Brett Associates	PIC/C/29 (NE.14)
120/D349	Mrs H Woodley	PIC/C/30 (NE.14)
120/D345	Mrs H Woodley	PIC/C/28 (Diagram 12)

Supporting Statements

878/B29	The Bath Society	NE.14
1427/D220	Environment Agency	PIC/C/27 (NE.14)
3116/C33	Bath & North East Somerset Allotment Association	NE.14/A
3257/C224	Somer Valley Friends of the Earth	NE.14/A
3116/C34	Bath & North East Somerset Allotment Association	NE.14/B
3257/C225	Somer Valley Friends of the Earth	NE.14/B
3116/C35	Bath & North East Somerset Allotment Association	NE.14/C
3116/C36	Bath & North East Somerset Allotment Association	NE.14/D
3116/C37	Bath & North East Somerset Allotment Association	NE.14/E
3116/C38	Bath & North East Somerset Allotment Association	NE.14/F
3116/C39	Bath & North East Somerset Allotment Association	NE.14/G
3116/C40	Bath & North East Somerset Allotment Association	NE.14/H

Comments on Suggested Unadvertised Inquiry Changes IC17 and IC19

120/G371-s	Mrs H Woodley	IC17 (C2.59)
120/G372	Mrs H Woodley	IC19 (NE.14, Insets & Diagram 12)
3116/G156	Bath & North East Somerset Allotments Association	IC19 (NE.14, Insets & Diagram

Issues

- i) Whether reference should be made to Flood Risk Assessments (FRA).
- ii) Whether the plan takes account of climate change.
- iii) Whether the policy is too restrictive or too weak.
- iv) Whether floodplains should be shown on the Proposals Map and, if so, whether boundaries should be amended.

Inspector's Reasoning

Issue i)

10.81 Paragraph A4.14 of the plan includes flood risk and drainage assessments among the information that may be required to support a planning application, but there is no reference to FRAs in the section of the plan concerning flooding. FRA is the key tool to assess whether any particular site and development is at risk from flooding, of any consequences for flooding elsewhere and how any such risks may be mitigated. In my view, it is essential that Policy NE.14 requires FRAs to be submitted with all development proposals within indicative floodplains or anywhere else that evidence suggests is at risk of flooding. A brief explanation of FRAs and reference to the guidance on their preparation in PPG25 Appendix F should be made in the text. I recommend accordingly.

Issue ii)

10.82 Climate change is an important consideration in assessing flood risk and the consequences of flooding. Paragraph 2.59 highlights the uncertainty associated with climate change and the need for a precautionary approach. My understanding is that climate change is already being taken into account by the Environment Agency (EA) when preparing indicative floodplain maps. Best practice in the preparation of FRAs also takes account of climate change when estimating the frequency and consequences of particular flood events on a site. Subject to the plan requiring FRAs where development may be at risk of flooding, I consider that no further comment on climate change needs to be added.

Issue iii)

10.83 A number of changes were made in the RDDLP in response to objections. Paragraph C2.58A makes reference to PPG25 and the sequential test, and Paragraph B6.10 and Policy ES.5 addresses the issue of SUDs. The policy

now allows for development where the flood hazard can be mitigated. In my view, the changes address the concerns of many objectors that the policy was too inflexible in relation to development within existing urban areas or on previously developed land.

10.84 I accept that the possible flooding of access routes serving a development (including the public highway off-site) may be a material consideration. This would not directly be covered by the policy, but should be an issue identified in a FRA, which I am recommending is submitted with all applications on sites at risk from flooding. I consider that no change is needed on this point.

10.85 It would be contrary to national policy to place an absolute restriction on development in the indicative floodplains identified by the EA. Policy NE.14 contains criteria which would prevent development unless the flood hazard can be mitigated. I consider that this is a reasonable approach. In my view, no other concerns raised by objectors warrant changes to the policy. Some of the changes sought would overlap with matters covered by policies elsewhere in the plan and or would be repeating advice set out in PPG25. Duplication should be avoided. There is repetition between criterion i and ii. This repetition is unnecessary. I consider that criterion ii should be deleted since the main purpose of showing indicative floodplains on the Proposals Map is to trigger the preparation of a FRA to accompany any application for development, on which I comment further below. This approach is consistent with the Council's view that indicative flood plain information is a guide to be used as a basis for consultation.

Issue iv)

10.86 Many objections were made to the uncertainty caused by the use of 2 different notations relating to flooding on the Proposals Map in the DDLP. These have been met, at least in part, by the use of a single notation in the RDDLP. Paragraph 51 of PPG25 indicates that Proposals Maps should show areas of flood risk. The Proposals Map shows indicative floodplains as assessed by the EA. The RDDLP is thus consistent with national advice. I recognise that these indicative floodplains are being refined as more detailed modelling is undertaken in particular areas or to take account of FRAs on specific sites and that in some areas the assessments are based on relatively crude extrapolations. I also recognise the concern of some objectors that indicative floodplains are not conclusive evidence of a site being at risk from flooding and should not be interpreted as such. The process of updating is reflected in an addition to paragraph C2.59 in IC17, which is useful, and an amendment to the floodplains boundaries at Western Riverside in IC19.

10.87 In my view, there is a benefit in indicative floodplains being shown on the Proposals Map despite their limitations because they serve to alert both landowners/developers and the Council to the need for FRAs when considering any planning application. This is the prime reason for showing indicative floodplains and my recommended modification to Policy NE.14

would ensure that, in isolation, the location of a site within an indicative floodplain did not arbitrarily preclude development.

10.88 A number of objectors question the accuracy of the boundaries of the floodplains shown on the Proposals Map. In my view, the Proposals Map should show the floodplains on a consistent basis and should not be amended piecemeal other than in step with changes to the EA's indicative floodplain maps. I therefore do not intend to recommend any changes in response to these site specific objections, but prior to adoption the Proposals Map should be updated to take account of all recent revisions to the EAs maps, so as to reflect the most up to date position. For clarity and consistency the key to the Proposals Map should also be amended to refer to "Indicative Flood Plains".

10.89 PIC/C/30 added to the Proposals Map "Protected Overland Flood Paths" in 3 locations. These are supposedly related to Policy NE.14, but there is no mention of them in the plan and it is unclear what they are intended to represent. In my view, it is unhelpful for the Proposals Map to contain a notation which is not explained in the plan and subject to a particular policy criterion. (The only exception to this are statutorily designated European wildlife sites). This notation should either be deleted or be the subject of explanation and policy criteria in the Plan. On the evidence before me I am unable to assess whether such a notation is necessary.

10.90 IC20 proposes that a definition of "floodplain" be added to the glossary. This may be of assistance to the general public in understanding the plan and thus it is a worthwhile addition which I recommend in Section 13. I consider that no other explanatory additions are required.

Recommendations:

R10.19 Modify paragraph C2.58A by reference to the importance of Flood Risk Assessments being prepared and submitted with planning applications within indicative floodplains and to the advice on their preparation at Annex F of PPG25.

R10.20 Modify paragraph C2.59 by the addition of IC17.

R10.21 Modify Policy NE.14 by deleting criterion ii; and adding at the end of the policy:

"all planning applications located within an indicative floodplain shown on the Proposals Map or where there is other evidence that it is at risk from flooding should be accompanied by a Flood Risk Assessment."

R10.22 Modify the Proposals Map:

in accordance with IC19 (floodplain boundaries at Bath Western Riverside) and to take account of any other revisions to the EAs indicative floodplain maps;

by adding "indicative" before "flood plain" on the Key.

by deleting the Protected Overland Flood Paths (PIC/C/30) (unless the plan is modified to explain their purpose and what policy criteria apply to them).

Chapter C2 - Policy NE.15 and Paragraphs C2.61 and C2.63

120/B83	Ms Helen Woodley	NE.15
1427/B124	Environment Agency	C2.61

Supporting Statements

3257/C226	Somer Valley Friends of the Earth	C2.61/A
3116/C41	Bath & North East Somerset Allotment Association	C2.61/B
3257/C227	Somer Valley Friends of the Earth	C2.61/B
3298/C70	Cam Valley Wildlife Group	C2.61/B
3116/C42	Bath & North East Somerset Allotment Association	C2.63/A
3257/C228	Somer Valley Friends of the Earth	C2.63/A
1427/C216	Environment Agency	NE.15/A
3116/C43	Bath & North East Somerset Allotment Association	NE.15/A
3257/C229	Somer Valley Friends of the Earth	NE.15/A
3298/C69	Cam Valley Wildlife Group	NE.15/A
3511/C17	British Waterways	NE.15/A

Issue

- i) Whether the policy should protect watercourses that have value for food production.

Inspector's Reasoning

10.91 There are several policies in the plan which directly or indirectly afford protection to watercourses. I accept that none of these refer to their food production value, such as from existing or former watercress beds, but these would be likely to come within one of the other categories set out in the various policies. The plan cannot address every possible eventuality and I consider that a change in response to this issue is unnecessary.

10.92 Policy NE.15 was amended in the RDDLP to refer to watercourses "and their corridors" and this meets objector's concerns for such wording.

Recommendation: no change.

Chapter C2 - Policy NE.16

120/B73	Ms Helen Woodley	NE.16
721/B36	Government Office for the South West	NE.16
2975/B18	Crest Nicholson Properties Limited	NE.16
3299/B3	Bovis Homes (South West Region) Limited	NE.16

Supporting Statements

3298/B17 Cam Valley Wildlife Group
3257/C230 Somer Valley Friends of the Earth

NE.16
NE.16/A

Issue

- i) Whether the Policy is consistent with national advice and is clearly worded.

Inspector's Reasoning

10.93 An objector highlights the comment in the Rural White Paper (Paragraph 9.3.4) that "it would be wrong to protect an area simply because of its agricultural quality at the expense of another that offers much greater countryside character". In my view, the plan is not inconsistent with that advice since there are a wide range of policies that also seek to protect the countryside for its landscape and nature conservation qualities. The protection afforded to the best and most versatile agricultural land must not be seen in isolation. Furthermore, national policy advocates the use of poorer quality land in preference to that of a higher quality (see PPS7 Paragraph 28) and states that planning authorities may wish to include policies to protect this land from speculative development (Paragraph 29, PPS7).

10.94 Policy NE.16 does not impose an embargo on the development of the best and most versatile land, but indicates that the protection afforded by the policy can be outweighed by the need for the development or sustainability considerations affecting lower grade land. But "need" is not defined in the plan and paragraph C2.66 explains sustainability considerations solely in relation to the potential countryside qualities of lower grade land which might weigh against its use. This ignores an equally important sustainability consideration, namely, which land is in the most accessible/sustainable location.

10.95 I consider that whilst the broad aim of the policy is appropriate, it is too long and complicated. I recommend a revised wording so that the policy, along with the others in the plan, should ensure that development takes place in the most sustainable manner. Sustainability includes giving due weight to the productive value of land. The Town and Country Planning Act 1990 defines agriculture as including horticulture and no separate reference to horticulture is necessary.

Recommendations:

R10.23 Delete the existing wording of Policy NE.16 and substitute:

"Development which would result in the loss of the best and most versatile agricultural land will not be permitted unless sustainability considerations are sufficient to override the protection afforded to the agricultural value of the land. Development should be directed towards

the lowest grade agricultural land except where sustainability considerations indicate otherwise."

R10.24 Modify paragraph 2.66 to refer to the comparative accessibility/sustainability of land of different agricultural value as one of the factors to be taken into account in determining where necessary development on agricultural land should take place.
