

Nuneaton and Bedworth Borough Council

Borough Plan Review (2021 - 2039)



NBBC's MIQ responses to Block 2

Matter 6

Contents

Matter 6 – Detailed Policies	9
<i>Issue: Whether the non-strategic detailed policies reflect the Plan’s vision, strategic objectives and development strategy and accord with national policy and evidence?</i>	9
<i>General</i>	9
<i>Q85. Which policies in the Plan ensure that the residential amenity of existing residents is appropriately protected from new development?</i>	<i>9</i>
<i>Q86. Is it appropriate for detailed policies to make reference to Supplementary Planning Guidance or should these be referred to in the supporting text?</i>	<i>12</i>
<i>Policy H1 – Range and mix of housing</i>	13
<i>Q87. Is Policy H1 justified and consistent with the evidence and national policy?</i>	<i>13</i>
<i>Q88. Is there a need for the first part of the policy to refer to housing tenure as well as type and size?</i>	<i>16</i>
<i>Q89. Is the requirement for homes for older people and other specialised housing to comply with M4(3) higher building regulations standards justified by evidence and consistent with national policy?</i>	<i>17</i>
<i>Q90. Is the requirement to ‘strongly adhere to’ emerging technical guidance justified and effective?</i>	<i>22</i>
<i>Q91. The last part of the policy relating to self-build and custom build homes refers to them being ‘sustainably located’ – what is meant by this? As worded is it sufficiently precise and unambiguous?</i>	<i>23</i>
<i>Policy H2 – Affordable Housing</i>	24
<i>Q92. Is Policy H2 justified, and consistent with the evidence and national policy? Does the evidence indicate that a 25% requirement is deliverable?</i>	<i>24</i>
<i>Q93. Are the requirements for affordable home ownership / First Homes clear and unambiguous so as to be effective?</i>	<i>30</i>
<i>Q94. Is the requirement of two affordable dwellings to be provided on schemes of 11-14 dwellings justified?</i>	<i>32</i>
<i>Q95. Are the requirements relating to M4(2) compliance justified?</i>	<i>33</i>
<i>Q96. What does ‘considered constructively’ mean? It is it clearly understood and necessary?</i>	<i>34</i>
<i>Q97. Is the approach to exceptions clear, effective and justified?</i>	<i>35</i>
<i>Q98. Is the reference to the Affordable Housing SPD justified?</i>	<i>36</i>
<i>Policy H4 – Nationally Described Space Standards</i>	37
<i>Q99. Is Policy H4 justified, effective and consistent with the evidence and national policy?</i>	<i>37</i>
<i>Q100. Is the policy sufficiently flexible?</i>	<i>41</i>

Q101. Is there duplication with Policy BE3 which also requires compliance with the NDSS?.....	43
Q102. Is the first part of the policy actual policy or background on the standards? If the latter, should it be in the supporting text rather than the policy itself?	44
Policy H5 – Accessible and adaptable homes	46
Q103. Is Policy H5 justified, effective and consistent with the evidence and national policy?	46
Q104. Is there unnecessary repetition of requirements in relation to standards set out in other policies which may make the policies unclear and ineffective?	51
Policy E1 – Nature of employment growth	53
Q105. Should part 2 of the policy refer to logistics development?	53
Policy E2 – Existing employment sites.....	54
Q106. Paragraph 4 of the policy refers to ‘protected employment sites’ – is this referring to the sites listed in Table 19?	54
Policy TC1 – Town centre requirements.....	55
Q107. Unlike the adopted plan, Policy TC1 does not set out specific requirements for town centre uses in Nuneaton and Bedworth town centres. Is this approach justified and is the policy sufficiently precise?	55
Policy TC2 – Nature of town centre growth.....	57
Q108. Reference is made within the second part of the policy dealing with defined town centres and primary shopping areas to the effect of proposals on the ‘primary frontages’. The glossary defines primary frontages as ‘shopping frontages that include a high proportion of retail uses’. Is this sufficiently clear and unambiguous?	57
Policy TC3 – Hierarchy of centres (including district and local centres)	60
Q109. Part 1 of the policy refers to an 800m walking distance to a district or local centre. This is a reduced distance when compared to the adopted plan (1200m). What is the justification for this?	60
Q110. Should the policy also refer to cycling distance?	62
Q111. Is the list of local centres comprehensive? Have any centres been omitted?	63
Policy HS1 – Ensuring the delivery of infrastructure	66
Q112. Is the policy wording sufficiently clear and are all of the policy requirements necessary or would it be more appropriate for some (e.g. part 4 of the policy) to be included in supporting text?	66
Q113. Is there a need for this policy and/or supporting text to refer to foul drainage and the water cycle study or is this addressed by Policy BE3?	69
Q114. Should the policy refer to EV charging stations?	70
Policy HS2 – Strategic accessibility and sustainable transport	71

Q115. Should the policy refer to EV charging stations?	71
Q116. As currently worded, are the requirements of part 5 of the policy too onerous? Is more flexibility required?	72
Q117. The policy refers to support being given to lorry parking facilities in specific locations. Does this need to be caveated? For example, only where they meet the relevant policies in the Plan, a phrase used in other policies?	74
Policy HS4 – Retaining and expanding community facilities	76
Q118. Is this policy consistent with the Framework? In particular, given that it relates to the loss of open space and sports facilities, is it consistent with paragraph 99 of the Framework?	76
Q119. Bullet point three of the policy requires better replacement facilities nearby. Is this justified given that the Framework requires equivalent or better facilities? ..	82
Q120. Would it be more appropriate/effective for the loss of open space / sports facilities to be dealt with by either Policy HS6 – Sport and exercise and/or Policy NE2 – Open space and playing fields?	83
Q121. Is it appropriate to refer to a use no longer being viable in the policy?	84
Policy HS5 - Health	85
Q122. The policy refers to Health Impact Assessment Screening Report and Health Impact Assessment. A Health Impact Assessment is defined in the glossary to the Plan, but a Health Impact Assessment Screening Report is not. In order for the policy to be effective should it be?	85
Policy HS6 – Sport and Exercise	87
Q123. Is the policy consistent with the Framework and Policy HS4 – Retaining and expanding community facilities? Is it necessary for the loss of sports pitches and playing fields to be addressed in both Policy HS4 and Policy HS6?	87
Q124. Is the policy sufficiently clear about when sport and exercise facilities will be required to be provided on and off site?	91
Q125. Paragraph 11.54 refers to the need for developers to collaborate on the provision of infrastructure which is needed to serve more than one site. Is there sufficient detail within the plan about how this collaboration should be done?	94
Policy HS7 – Creating a healthier food environment	97
Q126. Is this policy justified and consistent with the Framework and PPG particularly with regard to the 400m exclusion zone around education establishments?	98
Q127. What is meant by the last sentence of the policy?	107
Policy NE1 – Green and blue infrastructure	108
Q128. Green infrastructure is defined in the glossary to the Plan, but blue infrastructure is not. Should it be?	109
Q129. Does the wording of the policy provide sufficient flexibility?	110

Q130. The first part of the policy states that new development proposals will enhance, sustain and restore existing green and blue infrastructure. Is it possible to achieve all three of these outcomes?	114
Q131. Are the second and fourth parts of the policy actual policy requirements or are they statements that should be included in the supporting text?	115
Q132. Part 5 of the policy refers to various set-backs. What justification is there for these?	116
Q133. Is there a need for the policy to address flood resilience schemes within green infrastructure?.....	119
Policy NE2 – Open space and playing fields	120
Q134. Is this policy consistent with the Framework and other policies within the Plan relating to open space and playing fields (HS4 & HS6)?	121
Q135. Does the wording of the policy provide sufficient flexibility?	128
Q136. Is the sentence after part 9 of the policy relating to climate change a policy requirement or a statement? Is it possible to demonstrate compliance with it? ..	129
Policy NE3 – Biodiversity and geodiversity	130
Q137. Is the policy sufficiently flexible?	133
Q138. Is the first part of the policy which refers to legislation necessary? Would it be more appropriate to refer to this legislation in the supporting text rather than in the policy itself?	137
Q139. Should the policy or supporting text refer to the Local Nature Recovery Strategy?	138
Q140. Is the policy consistent with national legislation and policy including the Framework, particularly with regard to the mitigation hierarchy and biodiversity net gain (BNG) requirements?	139
Q141. Is the term LBAP defined anywhere in the Plan?	140
Q142. Have the likely additional costs associated with BNG been accounted for in the viability assessment of the Plan?	142
Q143. Is it acceptable to require replacement habitat to be provided in the Borough.	143
Q144. With regard to monitoring ref NE3a, is it realistic to expect no deterioration to a local wildlife site when it is affected by a strategic allocation?	145
Policy NE4 – Managing flood risk and water quality	146
Q145. Is the policy consistent with the Framework? In particular, should it seek to improve water quality wherever possible in accordance with paragraph 174? ...	149
Q146. Is the 3rd paragraph under the heading SuDS a policy requirement or is it advice?	153
Q147. Should the policy refer to pedestrian access for more vulnerable development where overnight accommodation is proposed and to opportunities for flood risk reduction and ordinary/un-modelled watercourses?	157

Q148. Is the policy requirement for above ground SuDS techniques justified and does it provide sufficient flexibility?	158
Policy BE1 – Contamination and land instability	159
Q149. Does part 2c of the policy need amending for effectiveness? As drafted, it does not refer to a document type.	159
Policy BE2 – Renewable and low carbon energy	162
Q150. Does the first part of the policy offer sufficient flexibility for other types of renewable and low carbon technologies to be supported and should it specifically refer to hydro power?.....	164
Q151. The policy requires development to connect to any existing community/district heating schemes where appropriate or to consider installing new schemes. Is this approach justified, effective and consistent with national policy?	165
Q152. The policy refers to “low carbon” and “zero carbon”, is it clear what is meant by these terms?	167
Q153. Does paragraph 3 of the policy provide sufficient clarity about how this part of the policy could be met?	169
Q154. Is the reference to higher building regulations requirements justified and appropriate?	171
Q155. Does the last part of paragraph 4 relating to the approval of community led initiatives need to be caveated to if in accordance with other policies in the Plan?	172
Q156. Is it necessary for the policy to refer to which locations low carbon developments and EV charging stations may be acceptable e.g. outside of settlement boundaries and/or to allocate specific sites?	173
Q157. Should the policy include a specific requirement for renewable / low carbon technologies in new residential development?	175
Policy BE3 – Sustainable design and construction	176
Q158. As worded, does the policy provide sufficient flexibility?	176
Q159. Part 1 of the policy refers to the ten characteristics of the National Design Guide and National Model Design Codes. Is this necessary or does it introduce duplication with national policy?	180
Q160. Part 3 of the policy refers to water consumption not exceeding 110 litres/person/day. Is this justified and supported by evidence? Is a lower maximum than this justified, and should this maximum be referred to as a minimum standard in order to encourage improved water efficiency standards? (110 litres/person/day is also referred to in Strategic Policy DS1 – Sustainable development).	182
Q161. Part 4 of the policy requires adherence to the Futures Homes and Buildings Standard prior to its introduction in 2025. Is this justified?	189
Q162. Is the Heritage assets section of the policy guidance or policy? How would a proposal demonstrate compliance with it?	192

Q163. Is it necessary and justified to refer to 95% of residential development meeting M4(2) and 5% meeting M4(3) Building regulations standards for access? Is this requirement a duplication of the requirement in policies SA1, H5 and to some extent policies H1 and H2?	194
Q164. Is it necessary and justified for the policy to require compliance with the NDSS?.....	196
Q165. Is it necessary and justified for major development proposals to meet all of the 12 considerations in Building for a Healthy Life (part 17 of the policy)? Is it clear what would be required to meet this policy requirement?	198
Q166. Does the last paragraph of the policy just refer to sustainable construction or to the wider policy? Is it necessary and justified to subject a viability assessment where a developer considers that meeting the requirements is not suitable to local circumstances?.....	201
Policy BE4 – Valuing and conserving our historic environment.....	203
Q167. The policy requires proposals to sustain and enhance heritage assets; to conserve and enhance heritage assets and to make a positive contribution to the character, appearance and significance of it. Is this approach sufficiently flexible and consistent with national policy and legislation?	203
Q168. Is the approach taken to non-designated assets consistent with national policy? In particular, having regard to paragraph 203 of the Framework should the harm be weighed against public benefits in the same way as for designated heritage assets?	206
Q169. Should the second paragraph under the ‘conserve the asset and its setting’ part of the policy also refer to the removal or destruction of scheduled monuments as well as those considered to be of equivalent significance?	207
Q170. Is the approach to dealing with harm to other important archaeological remains justified and consistent with national policy?	209
Q171. Is it necessary for all heritage assets and/or their settings to be lost to be recorded and analysed? Is this consistent with paragraph 205 of the Framework?	213
Q172. What is the justification for the last paragraph of the policy regarding change of use in conservation areas?	215

Colour coding

Green – Policy/supporting text from the Publication (Regulation 19) version of the Borough Plan Review [CD1].

Light orange – Suggested Main Modifications, March 2024 [CD21] / Suggested Additional Modifications, March 2024 [CD22] / Addendum to Suggested Main Modifications, March 2024 [CD22] following submission of MIQ's for Block 1, June 2024 [NBBC/6].

Light blue – Proposed modifications in light of writing the MIQ responses to Blocks 2 and 3 of the Examination in Public.

Matter 6 – Detailed Policies

Issue: Whether the non-strategic detailed policies reflect the Plan's vision, strategic objectives and development strategy and accord with national policy and evidence?

General

Q85. Which policies in the Plan ensure that the residential amenity of existing residents is appropriately protected from new development?

Answer

- 85.1 Core Document [CD1] is applicable to this response.
- 85.2 The Borough Plan Review [CD1] includes a number of site-specific strategic policies and non-strategic development management policies, which together seek to ensure that the residential amenity of existing residents is appropriately protected from new development.
- 85.3 Policy SA1 states that service bays for new employment should be situated away from existing residential properties by at least 50m; Policy E1 – Nature of Employment Growth states that where applications for non-B and E(g(ii and iii)) use class proposals are put forward on the portfolio of existing employment sites the impact on neighbouring uses should be addressed; and

Policy TC3 – Hierarchy of Centres sets out that development within district or local centres will be considered acceptable in principle, subject to the development not harming the amenities of local residents.

- 85.4 Further, Policy HS1 states that development will be required to provide infrastructure appropriate to the scale and context of the site in order to mitigate any impacts of the development. It sets out that all developments must consider the impact on provision of services and facilities, and that where there is an impact, this must be addressed. Policy HS2 sets out that development must consider the cumulative impact on air quality and measures proposed to ensure impact is not exacerbated. This policy also states that proposals need to meet acceptable levels of impact on existing highways networks and sets out the mitigation measures required to meet this acceptable level.
- 85.5 Policy HS3, at points 1-5 and 7, specifically refer to residential amenity in relation to telecommunications development. The policy seeks to ensure that the residential amenity of existing residents is appropriately protected from new development.
- 85.6 Policy HS4 is designed to prevent the loss of community facilities and includes requirements such as ensuring adequate alternative facilities are available locally, access to locally alternative facilities is enhanced or better replacement facilities are proposed nearby.
- 85.7 Policy HS7 refers to hot food takeaways and advises that applications for new hot food takeaways must demonstrate that the proposal does not have significant adverse impact on residential amenity through odour, noise and litter.
- 85.8 Policy NE4 states that new development should be prioritised to areas of lowest flood risk and must not increase flood risk elsewhere. The policy goes on to say that a site-specific flood risk assessment will be required to support planning applications for major developments or those in areas at risk of flooding, in order to demonstrate that the risk both within the site and to surrounding/downstream sites is not increased. Additionally, this policy requires that all development will require a drainage strategy which

demonstrates how surface water will be managed in accordance with the drainage hierarchy and flood risk will not be increased downstream.

- 85.9 In relation to the built environment, Policies BE1, BE2 and BE3 all seek to ensure existing residential amenity is protected. Policy BE1 states that development proposals located on or adjacent to land which may have been subject to contamination, land instability or likely to risk creating land instability, that could adversely affect nearby land or infrastructure, will need to demonstrate that the impacts of such developments can be mitigated against. Policy BE2 sets out that whilst the adoption of renewable and low carbon technologies are supported, proposals for retrofitting microgeneration technologies in existing developments will be approved, subject to a suitable assessment of the potential impacts to the local area. Similarly, proposals for small scale wind energy will be supported providing that there will be no significant harm to the amenity and safety of residential areas. Policy BE3 states that all development proposals must contribute to local distinctiveness and character by reflecting the positive attributes of the neighbouring area, and respecting the sensitivity to change of the generic character types within each urban character area. Further to this, the policy specifically states that key characteristics to consider include residential amenity.
- 85.10 As demonstrated above, the policies when considered holistically seek to protect existing residential amenity.

Q86. Is it appropriate for detailed policies to make reference to Supplementary Planning Guidance or should these be referred to in the supporting text?

Answer

- 86.1 Core Document [CD1] is applicable to this response.
- 86.2 Yes, the Council considers it appropriate, where relevant, for detailed policies to make reference to Supplementary Planning Guidance. In response to Questions 52, 92 and 159, the Council suggest modifications to policy wording to ensure consideration is given to Supplementary Planning Documents as opposed to complying with Supplementary Planning Documents.
- 86.3 Further, as set out in the response to Question 29, the Council have suggested a modification to Policy DS1 which states “in determining applications, consideration should be given, where relevant, to adopted Supplementary Planning Documents”.

Policy H1 – Range and mix of housing

Q87. Is Policy H1 justified and consistent with the evidence and national policy?

Answer

- 87.1 Core Document [CD1] and Evidence Base Document [EB7.1], in particular Chapter 12, is applicable to this response.
- 87.2 Paragraph 62 of the NPPF requires the size, type and tenure of housing, needed for different groups in the community, to be assessed and reflected in planning policies. This includes but is not limited to those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.
- 87.3 Policy H1 – Range and mix of housing, along with the other housing policies in Chapter 8, namely Policy H2 – Affordable housing, Policy H3 – Gypsies, Travellers and Showpersons and Policy H5 – Accessible and adaptable homes seek to address this requirement and ensure a mix of development comes forward within the Borough to meet a range of needs.
- 87.4 Policy H1 is separated into four sub-sections and aligns with Policy H1 of the adopted Borough Plan (2011-2031). However, it has been updated to reflect more up to date evidence and the additional reference to self-build and custom build homes.
- 87.5 In relation to general market housing, specifically the size and types of homes needed, Chapter 12 of the sub-regional HEDNA (EB7.1), outlines the methodology used in order to establish the indicative mix for developments across the Borough. This is shown under Table 11 of the supporting policy text

in the Borough Plan Review [CD1]. The policy seeks to ensure that an appropriate mix of housing and sizes is provided on development proposals aligned to the suggested mix identified in the HEDNA. However, as outlined in paragraphs 12.38 and 12.39, this mix is not prescriptive and there could be justification for housing mix which differs from that set out in Table 11, with site location and area character relevant considerations. On this basis and to avoid repetition, the Council is suggesting a modification to the text to read as follows:

Policy H1 – Range and mix of housing

AMEND the first paragraph of Policy H1 to read:

~~Development is required to provide an appropriate mix of housing types and sizes based on the need and demand identified in the most up to date HEDNA or equivalent.~~ There is currently an imbalance of dwelling types within the Borough, which the Council will seek to re-address by actively promoting the delivery of housing schemes, where the appropriate housing mix **of housing tenure, types and sizes** proposed aligns with the identified needs and demands, of the Borough, in the **most up to date HEDNA or equivalent, as well as the characteristics of the surrounding area.**

- 87.6 Policy H1 goes on to support the development of extra care housing, residential care homes and other options which enable older people to stay in their homes, as well as specialised housing and care accommodation. It requires the buildings to comply with M4(3). This is discussed further in response to Questions 46 and 89.
- 87.7 The policy supports development proposals for self-build and custom build homes where they are sustainably located and subject to compliance with the development plan as a whole. The Borough has relatively low levels of

demand of self-build properties, with 43 individuals on the register and therefore the Council does not consider it justified to seek a percentage of self and custom build properties on larger sites, but instead actively supports self and custom build homes within the Borough.

87.8 In relation to other groups identified by national policy, there are limited numbers of student households and service families within the borough and therefore no specific provision is made for student or service family housing.

87.9 Therefore, the Council considers Policy H1 is justified and consistent with evidence, namely the recommendations of the sub-regional HEDNA [EB7.1] in relation to the range and mix of housing, and consistent with national policy.

Q88. Is there a need for the first part of the policy to refer to housing tenure as well as type and size?

Answer

88.1 Core Document [CD1] is applicable to this response.

88.2 The Council have suggested a modification in response to Question 87 which incorporates housing tenure.

Q89. Is the requirement for homes for older people and other specialised housing to comply with M4(3) higher building regulations standards justified by evidence and consistent with national policy?

Policy H1 – Range and mix of housing

General market housing

Development is required to provide an appropriate mix of housing types and sizes based on the need and demand identified in the most up-to-date HEDNA or equivalent. There is currently an imbalance of dwelling types within the Borough which the Council will seek to re-address by actively promoting the delivery of housing schemes, where the housing mix proposed aligns with the identified needs and demands, of the Borough, in the HEDNA.

Homes for older people

Development of extra care housing, residential care homes and other housing options, which allow older people to stay in their own homes, will be supported where a local need can be demonstrated. These types of buildings will need to comply with M4(3) higher Building Regulations standards and will be strongly encouraged to adhere with the emerging Warwickshire County Council Technical guidance for Specialised Supported housing and Housing with Care developments.

Other specialised housing

Development proposals for specialised housing and care accommodation will be supported where a local need can be demonstrated. These types of buildings will need to comply with M4(3) higher Building Regulations standards and will be encouraged to adhere with the emerging Warwickshire County Council Technical guidance for Specialised Supported housing and Housing with Care developments.

Self-build and custom build homes

Development proposals for self-build and custom build homes will be supported where they are sustainably located and subject to compliance with the development plan policies as a whole.

Answer

89.1 Core Document [CD1] is applicable to this response.

89.2 The NPPF defines older people as “people over or approaching retirement age, including the active, newly retired through to the very frail elderly; and

whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs”.

- 89.3 The NPPF states “people have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs”.
- 89.4 In accordance with the NPPF’s definitions, homes for older people and other specialised housing would be required. The definition for older people indicates that accessible and adaptable homes in multiple forms, including homes for older people and other specialised housing, are required. Focusing on the definition for people with disabilities, these people may live within specialised housing and therefore, the standards would in turn, apply to their homes.
- 89.5 To provide accessible and adaptable housing, applicable to homes for older people and other specialised housing, in accordance with the NPPF definitions, the M4(3) higher building regulations would need to be complied with. In accordance with the PPG, “Planning policies for accessible housing need to be based on evidence of need, viability and a consideration for site-specific factors”¹. Policy H5 provides justification for M4(3) higher building regulations standards, in the borough, in the supporting text (paragraphs 8.73 through to 8.77). Paragraphs 8.9 through to 8.12 and 8.14, relating to Policy H1, also provide justification for older people and people with disabilities requiring certain housing.
- 89.6 However, it is recognised that in certain exceptional circumstances, providing fully M4(3) specialised housing/older people’s homes may not be viable. Therefore, the Council would like to propose two modifications, one to the policy text of Policy H1, as well as one to the supporting text, to ensure the policy is sufficiently flexible. The modifications have been developed in

¹ [Housing for older and disabled people - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/housing-for-older-and-disabled-people)

collaboration with Warwickshire County Council's Specialised Housing and Older Peoples Teams.

Policy H1 – Range and mix of housing

AMEND the second and third paragraphs of Policy H1:

Homes for older people

Development of extra care housing, residential care homes and other housing options, which allow older people to stay in their own homes, will be supported where a local need can be demonstrated. **Information on local need presented in Warwickshire County Council's Joint Strategic Needs Assessments and Market Position Statement documents should be considered.** These types of buildings ~~will need to comply with M4(3) higher Building Regulations standards and will be strongly encouraged to adhere with the emerging Warwickshire County Council Technical guidance for Specialised Supported housing and Housing with Care developments~~ **consider any relevant technical guidance as part of any development proposals and are likely to need to comply with M4(3) higher Building Regulations standards.**

Other specialised housing

Development proposals for specialised housing and care accommodation will be supported where a local need can be demonstrated. **Information on local need presented in Warwickshire County Council's Joint Strategic Needs Assessments and Market Position Statement documents should be considered.** These types of buildings ~~will need to comply with M4(3) higher Building Regulations standards and will be encouraged to adhere with the emerging Warwickshire County Council Technical guidance for Specialised Supported housing and Housing with Care developments~~ **consider any relevant technical guidance as part of any development proposals and are likely to need to comply with M4(3) higher Building Regulations standards.**

Policy H1 – Range and mix of housing

PROVIDE two footnotes:

Warwickshire County Council's Joint Strategic Needs Assessments:

<https://www.warwickshire.gov.uk/joint-strategic-needs-assessments-1>

Market Position Statement:

[Market Position Statements - Publications – Warwickshire County Council](#)

Policy H1 – Range and mix of housing

INSERT the following paragraph between paragraphs 8.11 and 8.12 of the supporting text of Policy H1:

Where evidence of local need and the needs of the potential occupants of a specific Specialised Supported Housing or Housing with Care developments indicate that M4(2) or a mix of M4(2) and M4(3) is appropriate, this may be considered.

- 89.7 Overall, the Council considers that requiring homes for older people and other specialised housing to comply with M4(3) higher building regulations standards, is justified by evidence and consistent with national policy, subject to providing a sufficient level of flexibility.

Q90. Is the requirement to 'strongly adhere to' emerging technical guidance justified and effective?

Answer

90.1 Core Document [CD1] is applicable to this response.

90.2 Warwickshire County Council are producing technical guidance for Specialised Supported housing and Housing with Care developments. This guidance document has not yet been published and reference is made to it within the supporting text at paragraph 8.11 [CD1]. Therefore, to ensure the policy requirements are justified and effective, the Council has suggested a modification to this policy (please refer to Question 89).

Q91. The last part of the policy relating to self-build and custom build homes refers to them being 'sustainably located' – what is meant by this? As worded is it sufficiently precise and unambiguous?

Answer

- 91.1 Core Document [CD1] is applicable to this response.
- 91.2 Policy H1 – Range and mix of housing seeks to ensure that development proposals for self-build and custom build homes will be supported where they are 'sustainably located' and subject to compliance with the development plan policies as a whole.
- 91.3 Given the nature and demand for self-build and custom build housing the Council does not consider it necessary to include site-specific criteria for these developments and instead developments will be judged on a site-by-site basis and subject to compliance with the development plan policies as a whole, which together seek to guide development to sustainable locations.
- 91.4 The Council consider a proposed modification is required to remove the term 'sustainably located', from the policy text, to ensure the policy is unambiguous:

Policy H1 – Range and mix of housing

REMOVE reference to 'sustainably located':

Self-build and custom build homes

Development proposals for self-build and custom build homes will be supported, ~~where they are sustainably located and~~ subject to compliance with the development plan policies as a whole.

Policy H2 – Affordable Housing

Q92. Is Policy H2 justified, and consistent with the evidence and national policy? Does the evidence indicate that a 25% requirement is deliverable?

Answer

- 92.1 Core documents [CD1] and [CD10] and Evidence Base Documents [EB.71], in particular chapter 8, and [EB.8], in particular chapter 5 are applicable to this response.
- 92.2 The Council are suggesting a modification to Policy H2 – Affordable Housing. The suggested modifications have been informed by the evidence base documents, on-going discussions with the Housing Team, the MIQ Questions and responses to the Regulation 19 consultation.

Policy H2 – Affordable housing

REPLACE Policy H2 to read:

Affordable Housing Provision

On development sites which provide 15 or more homes, the Council will require 25% of those homes to be affordable. For residential development sites that consist of between, 11 to 14 dwellings, a contribution of two affordable housing units will be required, irrespective of any demolitions.

Of the affordable housing dwellings provided, the exact tenure, size and mix should be identified through discussions with the local authority and informed

by the Council's latest published housing need evidence. All new homes must meet the requirement for 95% of new dwellings to be M4(2) compliant and 5% to meet the M4(3) Regulation Standards.

Development proposals will be required to incorporate and suitably integrate affordable and market housing to a high design standard.

All affordable housing need should be met on-site, unless it can be robustly justified that on-site provision is not feasible or viable.

Proposals that do not accord with the above requirements must be accompanied by a viability assessment which is transparent and complies with the relevant national or local planning policy and guidance applicable at the time.

Where it has been demonstrated to the Council's satisfaction that the provision of affordable homes in accordance with the above levels and the preferred tenure mix as indicated by the most up to date evidence would render the scheme unviable, the Council will determine the approach to be taken to achieving viability where appropriate, having regard to available options including reviewing the tenure mix and proportion of affordable homes.

Affordable Housing SPD

Developers are encouraged to consider how development proposals accord with the requirements set out in the Affordable Housing SPD, or any subsequent update.

- 92.3 Subsequently, given the suggested change to the policy wording, it is suggested the supporting text is also modified.

Policy H2 – Affordable housing

REPLACE supporting text paragraphs 8.26 to 8.42:

Affordable Housing

The NPPF requires local planning authorities to deliver a sufficient supply of homes and states the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

The Coventry and Warwickshire sub-regional Housing and Economic Development Needs Assessment (HEDNA) (2022) updated the evidence in the Strategic Housing Market Assessment (2015) to provide the latest evidence for affordable housing need in the Borough.

The evidence shows that whilst the cost of private market housing and rents across the Housing Market Area are generally lowest in Nuneaton and Bedworth (and Coventry) there is still a significant affordable housing need in the Borough.

In addition, six of the eight super output areas in Warwickshire, ranked within the top 10% most deprived nationally, are located in Nuneaton and Bedworth. Such high levels of disadvantage are reflected by the level of demand for affordable social housing in the Borough, which in July 2024 had a register of 4,000 applicants.

Proportion of affordable housing

The sub-regional HEDNA (2022) and Towards a Housing Requirement for Nuneaton (TAHR) (2022) findings suggest that across the Borough, there is a newly arising need for 391 affordable dwellings per year. To help meet this need it is therefore important that a proportion of all new housing developments are affordable, subject to viability.

Work undertaken by Dixon Searle Partnership in 2023 identified that an affordable housing target of 25% was viable on developments of 15 dwellings or more. Where the calculation would result in a fraction of a dwelling, the number will be rounded up. Based on the findings, the Council will also require two affordable units on sites where 11-14 dwellings are proposed.

In accordance with the latest national guidance, affordable housing contributions are not sought from developments of 10 dwellings or less.

Affordable tenure split and housing mix

Affordable housing is defined as housing for sale or rent for those whose needs are not met by the market. The NPPF breaks this down into defined types including affordable housing for rent, starter homes, discounted market sales housing and other affordable routes to home ownership.

Current evidence from the sub-regional HEDNA (2022), TAHR (2022) and the Council's Housing Register shows that there is a significant need for homes for affordable rent and such provision will be the Council's priority. This would not preclude the opportunity to provide the indicative levels of affordable home ownership products set out in national planning policy. To keep this policy up-to-date and flexible, it requires the tenure split and affordable housing mix to be informed by discussions with the local authority and based on the latest evidence published by the Council.

On-site provision

The NPPF promotes the creation of mixed and balanced communities, and to enable this, considers the provision of affordable housing is best met on-site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

Whilst the provision of affordable housing on-site is the Council's preferred delivery mechanism, alternative delivery mechanisms may therefore be acceptable, where it can be robustly justified, and providing such alternatives

can reasonably be expected to contribute to the creation of successful mixed communities.

In such cases the Council and the developer may jointly agree on either one or a combination of the following:

- An alternative site to be provided by the developer for the provision of affordable housing.**
- A financial contribution from the developer to the Council, to be used in connection with the development of affordable housing. The financial contribution will broadly be the equivalent value of providing the affordable homes on-site.**

Affordable Housing SPD

The adopted SPD provides guidance on:

- The design and location of affordable housing on site.**
- The provision of affordable housing that is not on site.**
- The use of Section 106 agreements and/or the Community Infrastructure Levy (or any new mechanism that may come into force).**

After the adoption of the Borough Plan Review, SPD's will be reviewed and updated but in the interim they remain valid where they are consistent with the Borough Plan Review policy.

92.4 The suggested revised wording for Policy H2 seeks to ensure the policy is justified and consistent with the relevant evidence base documents, namely the outputs of the sub-regional HEDNA [EB7.1], viability assessment [CD10] and national policy requirements.

92.5 In accordance with paragraphs 64 and 65 of the NPFF, the policy stipulates that affordable housing should be met on-site unless a financial contribution can be robustly justified and the type of affordable housing required should be in accordance with the latest evidence base documents. The evidence base documents outline that affordable housing is a pressing issue in the Borough,

particularly within the social and affordable rented sector. This is addressed within the revised policy text and supporting text. Further details in relation to affordable home ownership is set out in response to Question 93.

- 92.6 With regards to the 25% requirement, the sub-regional HEDNA [EB7.1] outlines the acute need for affordable housing within the Borough. The viability appraisal [CD10], undertaken by Dixon Searle Partnerships, at paragraph 25 states 'making our proportionate assessment and appropriate overview as per the PPG, we find that whilst the available viability is unlikely to regularly support more than 25%, that should remain the an appropriate policy headline for the BPR.' This is further documented within Towards a Housing Requirement [EB8] which at paragraph 5.16 and paragraph 5.17 states:

'If 25% of new homes were delivered as affordable homes in accordance with the Council's emerging affordable housing policy, 1,628 dpa would be required to meet the Borough's affordable need in full. The delivery of 1,628 dpa is clearly not realistic and is significantly more than the OAN set out in the Nuneaton & Bedworth HEDNA.

The needs evidence would support setting a higher proportion of overall development as affordable homes; but the viability evidence shows that this is not realistic and would not support higher delivery as a percentage of overall housing provision. It illustrates that it is not deliverable to meet the affordable housing need in full with no evidence that the market could support delivery of c. 1600+ homes annually.

Completions historically have never reached anything near this level.'

- 92.7 To date, all of the strategic sites, within the adopted Borough Plan (2011-2031), which have obtained planning permission (all except two), have achieved 25% affordable housing provision on-site. Therefore, based on the latest evidence, the Council consider this level of provision is deliverable within the plan period.

Q93. Are the requirements for affordable home ownership / First Homes clear and unambiguous so as to be effective?

Answer

- 93.1 The Council has suggested a modification to replace the wording of Policy H2 – Affordable Housing. The revised wording states the mix of affordable housing ‘will be required to reflect the latest available housing need evidence.’ Paragraph 5.4 of Towards a Housing Requirement (TAHR) [EB8] states that ‘no clear need for low-cost home ownership options, including First Homes, is identified in the evidence.’
- 93.2 Paragraph 66 of the NPPF requires planning policies to expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. TAHR [EB8] states there were 3,005 ‘active’ households in housing need who were on the Council’s Housing Register. The figure has increased since the production of the report with now over 4,000 households on the register. TAHR also examines a breakdown of applications by band. Which shows there are a significant number of households in urgent need in Bands 1 and 2 highlighting the urgent need to increase affordable housing delivery. Particularly those in greatest need and includes homeless households occupying temporary homeless accommodation, as well as households with significant hardships of a medical or social welfare nature. The Council considers the provision of 10% affordable homeownership could prejudice the needs of those within these specific bands.
- 93.3 Given the level of affordable housing need in the Borough, in particular for social and affordable rent, as demonstrated in the sub-regional HEDNA [EB7.1], and having regard to the Governments proposals to remove the 10% requirement for all new housing on larger site to be for affordable home ownership. The Council consider that the specific policy requirements relating

to affordable home ownership/First Homes should be removed from the draft policy.

Q94. Is the requirement of two affordable dwellings to be provided on schemes of 11-14 dwellings justified?

Answer

- 94.1 Core Document [CD10] is applicable to this response.
- 94.2 Yes, the requirement for two affordable dwellings to be provided on schemes of 11-14 dwellings is justified. In accordance with Paragraph 64 of the NPPF, affordable housing provision should be sought on major residential developments comprising of 10 or more units. The policy for affordable housing within the adopted Borough Plan (2011-2031) established the requirement of two affordable dwellings to be provided on schemes of 11-14 dwellings based on the viability evidence which supported the adopted plan.
- 94.3 Paragraph 3.2.15 of the viability assessment [CD10] considers the scale for affordable housing being requested and concludes 'in our view the policy as proposed is clear and should operate appropriately.'
- 94.4 The viability assessment tested affordable housing from 10 units onwards representing the worst-case scenario. Therefore, the policy approach of requiring two affordable housing units on sites between 11 – 14 units provides improved viability prospects in comparison to the 25% affordable housing policy requirement being applied on schemes of 10 units plus. This would result in the provision of between 3- 4 affordable units instead of 2 affordable units. This policy approach has been successfully implemented in the Borough since its adoption in 2019 and therefore the Council consider it is justified to be rolled forward into the affordable housing policy within the Borough Plan Review.

Q95. Are the requirements relating to M4(2) compliance justified?

Policy H2 – Affordable housing

Design standards

The Council will require developments to incorporate and suitably integrate affordable and market housing to a high design standard.

All affordable housing must meet the requirement for 95% of new dwellings to be M4(2) compliant and 5% to meet the M4(3) Building Regulations standards. All affordable units must include private outdoor amenity space for each property.

Answer

- 95.1 Core Documents [CD1] and [CD10] are applicable to this response.
- 95.2 Policy H5 is the lead policy regarding accessible and adaptable homes and the requirement for 95% of all new major residential dwellings to be M4(2) compliant and 5% to be M4(3) compliant. Policy H5 provides justification for the inclusion of this optional technical standards for housing (higher Building Regulations) through evidencing a local need and viability evidence [CD10].
- 95.3 Approved Document M of the Building Regulations 2010, the NPPF nor the PPG regarding the optional technical standards for housing, indicate that these higher standards cannot be applied to affordable housing or in a different way to market housing.
- 95.4 The Council would defer to the answer provided to Question 103, for further detail on policy compliance with higher Building Regulation M4(2), in the Borough Plan Review.
- 95.5 Overall, the Council considers the requirement for affordable housing to meet the requirement for 95% of new dwellings to be M4(2) compliant, within Policy H2 and the Borough Plan Review, justified.

Q96. What does 'considered constructively' mean? It is it clearly understood and necessary?

Answer

96.1 Core Document [CD1] is applicable to this response.

96.2 The Council has suggested a modification to replace the wording of Policy H2 – Affordable Housing. The phrase 'considered constructively' is proposed to be deleted as part of the suggested modification.

Q97. Is the approach to exceptions clear, effective and justified?

Answer

97.1 Core Document [CD1] is applicable to this response.

97.2 Given the primarily urban nature of the Borough, historically no exception sites have come forward, therefore as part of the suggested modification the Council is proposing to remove the section related to exception sites.

Q98. Is the reference to the Affordable Housing SPD justified?

Answer

- 98.1 Core Document [CD1] is applicable to this response.
- 98.2 Yes, the reference to the Affordable Housing SPD is justified. The policy for affordable housing within the adopted Borough Plan (2011-2031) states that proposals must consider how they accord with the Affordable Housing SPD. The suggested policy wording aligns to that of the adopted text but encourages applicants to consider how development proposals accord with the requirements set out in the Affordable Housing SPD, or any subsequent update.
- 98.3 As set out in the response to Question 29, the Council have suggested a modification to Policy DS1 which states 'in determining applications, consideration should be given, where relevant, to adopted Supplementary Planning Documents.'

Policy H4 – Nationally Described Space Standards

Q99. Is Policy H4 justified, effective and consistent with the evidence and national policy?

Policy H4 – Nationally Described Space Standards

The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.

All residential dwellings should comply with the NDSS including any dwelling which does not fall within a C3 use class; for example, extra care accommodation, assisted living housing or houses in multiple occupation; or from change of use or conversion.

Where this requirement is believed to be unviable, written robust justification as to why this policy cannot be achieved, should be provided to the Council.

Answer

99.1 Core Documents [CD1], [CD10] and [CD14] are applicable to this response.

99.2 The Council's Borough Plan Review policies seek to maximise development potential and utilise available land in the most efficient way, whilst achieving sustainable development and respecting local character and heritage.

However, it is also important to ensure that achieving higher density development does not compromise space standards and living conditions for residents. The National Housing Federation, in 2023, said "overcrowding in the social sector is indicative of a shortage of available housing of the right size, and in the private sector it is indicative of the affordability issues faced by

households in trying to find a home larger enough for their needs”². The introduction of the NDSS will help combat this.

- 99.3 A Written Ministerial Statement³ published on 25th March 2015 set out the UK government’s approach to the setting of technical standards for new homes. The new standards were introduced to simplify and streamline the planning system. In turn, Local Planning Authorities were given the option of setting additional technical requirements such as the NDSS. Local Planning Authorities are required to gather evidence to determine whether there is a need for additional standards in their area and justify the policies proposed in their Local Plan.
- 99.4 Representation 16.11, in relation to the Regulation 19 consultation on the Borough Plan Review [CD14], states that “if the Government had expected all properties to be built to NDSS that they would have made these standards mandatory not optional”. However, as outlined in paragraph 99.3 above, the government chose to make the standards optional so they could be applied where they were needed, to meet local needs, on the proviso that the local need is evidenced. The supporting text of Policy H4, in the Borough Plan Review, provides this justification.
- 99.5 The minimum requirements of the NDSS are considered appropriate to ensure that dwellings are usable and fit for their intended purpose. The standards should provide long term benefits to future occupants of new dwellings, in the borough, in terms of health and wellbeing, and by providing flexibility and adaptability of housing for changing household circumstances.
- 99.6 In addition, compliance with the NDSS is required under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015⁴ (as amended) and therefore, if the standards are appropriate for conversions from agricultural units to C3 dwellinghouses, they should equally be appropriate for new-build dwellings.

² [National Housing Federation - Overcrowding in England](#)

³ [Written statements - Written questions, answers and statements - UK Parliament](#)

⁴ [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](#)

- 99.7 The NDSS are detailed in the Sustainable Design and Construction Supplementary Planning Document (SPD)⁵, which was adopted by Nuneaton and Bedworth Borough Council in 2020. Since the adoption of the SPD, no feasibility studies have been submitted on the grounds of the NDSS and where schemes have been submitted that are contrary to the standards, the house types have subsequently been changed. This indicates that it is viable, deliverable and achievable for major residential developments to meet the NDSS, in the borough, and introducing these standards as a local policy requirement should not have a detrimental impact on future delivery.
- 99.8 It is recognised that the NDSS have only been stated within the Sustainable Design and Construction SPD previously, and therefore, the Council considered it prudent to include these standards in a specific, stand-alone policy, in the Borough Plan Review, for clarity.
- 99.9 The PPG indicates that “where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas: need, viability and timing”⁶. The supporting text of Policy H4 provides evidence for each of these identified areas, indicating that there is a justified local need, that the introduction of Policy H4 will not affect the viability of future residential developments being brought forward, in the borough, and that a reasonable transition period has been implemented. A separate evidence base document was not prepared to provide justification for this policy as it was deemed the supporting text provided sufficient space for the supporting evidence.
- 99.10 The Council considers the inclusion of Policy H4 justified, as it is based on proportionate evidence of local need; it is effective due to the NDSS being deliverable over the plan period; and the policy is consistent with national policy, bringing forward one of the UK government’s optional technical standards for housing.

⁵ [sustainable-design-and-construction-supplementary-planning-document-2020-
\(nuneatonandbedworth.gov.uk\)](https://nuneatonandbedworth.gov.uk/sustainable-design-and-construction-supplementary-planning-document-2020-)

⁶ [Housing: optional technical standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/housing-optional-technical-standards)

99.11 Overall, from a health and wellbeing point of view, the need for minimum internal space standards, at a national level is evident and there is justification for these standards to be introduced in the borough, through a local need, with the Council's Viability Assessment [CD10] and timing evidence, supporting the policy's inclusion the Borough Plan Review. The Council considers the supporting text provides the necessary justification for the inclusion of this new standalone policy.

Q100. Is the policy sufficiently flexible?

Policy H4 – Nationally Described Space Standards

The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.

All residential dwellings should comply with the NDSS including any dwelling which does not fall within a C3 use class; for example, extra care accommodation, assisted living housing or houses in multiple occupation; or from change of use or conversion.

Where this requirement is believed to be unviable, written robust justification as to why this policy cannot be achieved, should be provided to the Council.

Answer

100.1 Core Documents [CD1], [CD10] and [CD14] are applicable to this response.

100.2 Policy H4 provides the caveat, "where this requirement is believed to be unviable, written robust justification as to why this policy cannot be achieved, should be provided to the Council".

100.3 Within both the adopted Borough Plan (2011-2031) and elsewhere within the Borough Plan Review, a similar caveat to the one included in Policy H4 has been used. This approach is, therefore, an acceptable method of providing sufficient flexibility in relation to policy requirements.

100.4 Representation 106.14 of the Regulation 19 consultation on the Borough Plan Review [CD14], states that it is "an inflexible policy approach. Imposing NDSS on all housing removes the most affordable homes and denies lower income households from being able to afford homeownership". As indicated above, there is flexibility in the policy if there are exceptional circumstances. Where it is deemed unviable, written robust justification can be provided. If this is

deemed sufficient and suitable, by the Council, exceptions to the policy may be applied.

100.5 Furthermore, the requirement for all residential developments to comply with the NDSS has been tested within the Council's Viability Assessment [CD10]. Therefore, the introduction of this policy should not influence future affordable housing provision, in the borough, which is contrary to representation reference 106.14 [CD14].

100.6 Justification for the inclusion of Policy H4, in the Borough Plan Review, is provided in answer to Question 99.

Q101. Is there duplication with Policy BE3 which also requires compliance with the NDSS?

Policy H4 – Nationally Described Space Standards

The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.

All residential dwellings should comply with the NDSS including any dwelling which does not fall within a C3 use class; for example, extra care accommodation, assisted living housing or houses in multiple occupation; or from change of use or conversion.

Where this requirement is believed to be unviable, written robust justification as to why this policy cannot be achieved, should be provided to the Council.

Answer

101.1 Core Document [CD1] is applicable to this response.

101.2 Policy H4 is the lead policy in regard to the NDSS. Duplication between Policy H4 and Policy BE3 is present within the Borough Plan Review. To avoid repetition, two modifications are proposed to remove reference to the NDSS in Policy BE3, as well as Policy SA1 where it is also mentioned. These proposed modifications are outlined in answer to MIQ Question 46.

Q102. Is the first part of the policy actual policy or background on the standards? If the latter, should it be in the supporting text rather than the policy itself?

Policy H4 – Nationally Described Space Standards

The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.

All residential dwellings should comply with the NDSS including any dwelling which does not fall within a C3 use class; for example, extra care accommodation, assisted living housing or houses in multiple occupation; or from change of use or conversion.

Where this requirement is believed to be unviable, written robust justification as to why this policy cannot be achieved, should be provided to the Council.

Answer

102.1 Core Document [CD1] is applicable to this response.

102.2 The Council agrees that the first paragraph of the policy, as shown above, should be located within the supporting text of Policy H4, rather than in the actual policy text, as it is background information.

102.3 A modification is proposed, as follows:

Policy H4 – Nationally Described Space Standards

REMOVE the first paragraph of Policy H4:

~~The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.~~

ADD the following to the beginning of the supporting text of Policy H4 (The Technical Housing Standards (2015) and the Sustainable Design and Construction SPD (2020) will require footnotes to hyperlink to each document):

The Nationally Described Space Standards (NDSS) were first introduced in 2015 by the Department for Levelling Up, Housing and Communities, focusing on internal space standards within new dwellings. The standards can be viewed in the Technical Housing Standards (2015) or the Council's Sustainable Design and Construction SPD (2020). Where assessment methods are changed or superseded, the appropriate replacement standards should be used.

Policy H5 – Accessible and adaptable homes

Q103. Is Policy H5 justified, effective and consistent with the evidence and national policy?

Policy H5 – Accessible and adaptable homes

New major residential developments should include the following proportions of accessible and adaptable dwellings as defined in Part M Volume 1 of the Building Regulations:

- 95% of all new dwellings should meet M4(2) standards.
- 5% of all new dwellings should meet M4(3) standards.

All new major residential developments should meet these M4(2) and M4(3) standards unless robust justification can be provided as to why these types of dwellings would be unviable or physically impossible, due to a lack of level access, on the development site (for example, due to steep topography or the cost of lift installation). Flood Risk Assessments should be utilised, in order to understand the most viable location of M4(3) dwellings, in areas of lowest flood risk, and how the safety of occupiers can be ensured.

The mix, size, type and tenure of M4(3) dwellings should reflect the rest of the dwellings, to be brought forward on the development site, unless local need indicates otherwise.

M4(3) dwellings should normally be built to an 'adaptable' standard, unless the Council will be nominating an occupier, in which case they should be accessible for a wheelchair using occupier.

If the required number of M4(3) dwellings, to be built on a development site, produces an even quantity, half should be provided as affordable housing and half should be provided as market housing. Where an odd quantity is to be developed, affordable housing provision should be favoured – evidence indicates a higher need for wheelchair users in the social sector (50% for affordable and 19% for market). For example, if 15 M4(3) dwellings are proposed, 7 should be provided for market housing and 8 for affordable housing provision. This preference will be subject to the viability of the development.

Drawings must be submitted illustrating the M4(2) and M4(3) dwellings, including the adaptable or accessible measures implemented on-site, alongside their location on the development site.

Answer

103.1 Core Documents [CD1], [CD10] and [CD14] are applicable to this response.

103.2 The Council believes that people should have the opportunity to stay in their family homes for as long as possible. Making homes adaptable for changing and unforeseen circumstances provides families and individuals with the choice of staying in their existing home, whilst reducing the burden of excessively high build costs to retrofit properties, in order to meet such needs, and reduce the need to relocate.

103.3 The NPPF is “clear that local planning authorities should plan to create safe, accessible environments and promote inclusion and community cohesion. This includes buildings and their surrounding spaces. Local planning authorities should take account of evidence that demonstrates a clear need for housing for people with specific housing needs and plan to meet that need”⁷.

103.4 A Written Ministerial Statement⁸ published on 25th March 2015 set out the UK government’s approach to the setting of technical standards for new homes. The new standards were introduced to simplify and streamline the planning system. In turn, Local Planning Authorities were given the option of setting additional technical requirements such as the higher Building Regulations requirements for adaptable and accessible homes. Local Planning Authorities are required to gather evidence to determine whether there is a need for additional standards in their area and justify the policies proposed in their Local Plan.

103.5 Representation 16.12 of the Regulation 19 consultation on the Borough Plan Review [CD14], states that flexibility should be provided in the policy, to

⁷ [Housing: optional technical standards - GOV.UK \(www.gov.uk\) \(also applicable to the September 2023 NPPF\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434242/Housing_optional_technical_standards_-_GOV.UK_(www.gov.uk)_also_applicable_to_the_September_2023_NPPF.pdf)

⁸ [Written statements - Written questions, answers and statements - UK Parliament](https://www.parliament.uk/business/committees/committees-a-z/commons-select/written-questions-and-statements/)

ensure that where site-specific factors such as vulnerability to flooding would mean that the requirements could not be achieved or viable, that there is capacity to still develop the site. Policy H5 does allow this flexibility:

- 103.6 “All new major residential developments should meet these M4(2) and M4(3) standards unless robust justification can be provided as to why these types of dwellings would be unviable or physically impossible, due to a lack of level access, on the development site (for example, due to steep topography or the cost of lift installation). Flood Risk Assessments should be utilised, in order to understand the most viable location of M4(3) dwellings, in areas of lowest flood risk, and how the safety of occupiers can be ensured”.
- 103.7 Representation 106.12 [CD14] states that Policy H5 should consider M4(3) requirements separately, splitting the policy requirements and viability assessment data into M4(3)a and M4(3)b. However, the PPG⁹ only refers to the M4(3) standard as a whole. The Council’s interpretation of this representation is that the representative is referring to section 3a: Approach to the dwelling, and section 3b: Private entrances and spaces within, and connected to, the dwelling, in Approved Document M of the Building Regulations 2010¹⁰. In terms of the Council’s Viability Assessment [CD10] the viability of a requirement for 5% of new major residential developments to be M4(3) compliant has tested the standard as a whole and encompasses the costs of both sections 3a and 3b of Approved Document M. Therefore, both the Borough Plan Review policy and the associated Viability Assessment [CD10] encompass both M4(3)a and M4(3)b under one term – M4(3).
- 103.8 Representation 111.10 [CD14] states that utilising the Coventry and Warwickshire Housing and Economic Development Needs Assessment (2022)¹¹ and Census (2021)¹² represents a national need for adaptable and accessible homes rather than a local need and therefore, does not justifiably support the inclusion of Policy H5 in the Borough Plan Review. The representation goes onto outline that where evidence of local need is

⁹ [Housing: optional technical standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/housing-optional-technical-standards)

¹⁰ [BR PDF AD M1 2015 with 2016 amendments V3.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431111/BR_PDF_AD_M1_2015_with_2016_amendments_V3.pdf)

¹¹ [coventry-and-warwickshire-housing-and-economic-development-needs-assessment-hedna-2022-\(nuneatonandbedworth.gov.uk\)](https://www.coventry-and-warwickshire-housing-and-economic-development-needs-assessment-hedna-2022-nuneatonandbedworth.gov.uk/)

¹² [Census - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/census)

produced, in the supporting text of Policy H5, that it is not sufficient to evidence a total of 100% provision in terms of either M4(2) or M4(3) dwellings, in the borough. The Council contests this as the PPG does not state how much evidence of local need is required, per percentage requirement. Only that evidence is needed and a Local Planning Authority can set whatever percentage requirements they choose.

- 103.9 The requirement for 95% of all new major residential dwellings to meet M4(2) standards and 5% of all new major residential dwellings to meet M4(3) standards ensures that adaptable homes will be available for all individuals with a temporary or permanent physical impairment, in the borough, providing people with the choice, flexibility and independence, as well as promoting high quality and thoughtful housing design for the local population.
- 103.10 The adopted Borough Plan (2011-2031) sets out a requirement for major residential developments to “meet the optional Building Regulations requirement M4(2) for ‘accessible and adaptable dwellings’ for 35% of the development proposal”¹³. The adopted Borough Plan (2011- 2031) was viability tested on these grounds and no feasibility studies have been submitted on the grounds of the 35% requirement for M4(2) compliant homes. Where schemes have been submitted that are contrary to the requirement, the house types have been subsequently changed. This indicates that increasing the percentage requirements may be viable, deliverable and achievable, for major residential developments to accord with the Borough Plan Review policy, and not have an impact on housing delivery.
- 103.11 It is recognised that the requirement in the adopted Borough Plan (2011-2031) was only for 35% and not 95% of new major residential dwellings to be M4(2) compliant, with no mention of a requirement for M4(3) compliant dwellings either. However, due to the local needs of the borough, the Council considered it prudent to increase these requirements and enhance their reach, in the borough, by producing a specific, stand-alone policy, in the Borough Plan Review.

¹³ [Nuneaton and Bedworth Borough Council \(fs-filestore-eu.s3.eu-west-1.amazonaws.com\)](https://www.nuneatonandbedworth.gov.uk/fs-filestore-eu.s3.eu-west-1.amazonaws.com)

103.12 The PPG indicates that local need should be evidenced, and viability implications assessed, for the inclusion of these optional technical standards in a Local Plan. The Local Planning Authority can choose what proportion of new dwellings should comply with the requirements but should take into account site-specific factors that may affect the achievability or viability of meeting the local policy requirements. The supporting text of Policy H5 provides evidence for each of these identified areas, indicating that there is a justified local need for adaptable and accessible homes, and that the introduction of Policy H5 will not affect the viability of future residential developments being brought forward, in the borough. A separate evidence base document was not prepared to provide justification for this policy as it was deemed the supporting text provided sufficient space for the supporting evidence.

103.13 The Council considers the inclusion of Policy H5 justified, as it is based on proportionate evidence of local need; it is effective due to the requirements being deliverable over the plan period; and the policy is consistent with national policy, bringing forward one of the UK government's optional technical standards for housing.

103.14 Overall, from a health and wellbeing point of view, the need for adaptable and accessible homes, at a national level is evident and there is justification for these standards to be introduced on a localised level, in the borough, through a local need, with the Council's Viability Assessment [CD10] supporting the policy's inclusion in the Borough Plan Review. The Council considers the supporting text provides the necessary justification for the inclusion of this new standalone policy.

Q104. Is there unnecessary repetition of requirements in relation to standards set out in other policies which may make the policies unclear and ineffective?

Policy H5 – Accessible and adaptable homes

New major residential developments should include the following proportions of accessible and adaptable dwellings as defined in Part M Volume 1 of the Building Regulations:

- 95% of all new dwellings should meet M4(2) standards.
- 5% of all new dwellings should meet M4(3) standards.

All new major residential developments should meet these M4(2) and M4(3) standards unless robust justification can be provided as to why these types of dwellings would be unviable or physically impossible, due to a lack of level access, on the development site (for example, due to steep topography or the cost of lift installation). Flood Risk Assessments should be utilised, in order to understand the most viable location of M4(3) dwellings, in areas of lowest flood risk, and how the safety of occupiers can be ensured.

The mix, size, type and tenure of M4(3) dwellings should reflect the rest of the dwellings, to be brought forward on the development site, unless local need indicates otherwise.

M4(3) dwellings should normally be built to an 'adaptable' standard, unless the Council will be nominating an occupier, in which case they should be accessible for a wheelchair using occupier.

If the required number of M4(3) dwellings, to be built on a development site, produces an even quantity, half should be provided as affordable housing and half should be provided as market housing. Where an odd quantity is to be developed, affordable housing provision should be favoured – evidence indicates a higher need for wheelchair users in the social sector (50% for affordable and 19% for market). For example, if 15 M4(3) dwellings are proposed, 7 should be provided for market housing and 8 for affordable housing provision. This preference will be subject to the viability of the development.

Drawings must be submitted illustrating the M4(2) and M4(3) dwellings, including the adaptable or accessible measures implemented on-site, alongside their location on the development site.

Answer

104.1 Core Document [CD1] is applicable to this response.

104.2 Duplication between Policies H5, SA1 and BE3 is present within the Borough Plan Review. To avoid repetition, two modifications are proposed to remove reference to optional Building Regulations standards M4(2) and M4(3) in Policies SA1 and BE3. These proposed modifications are outlined in answer to MIQ Question 46.

104.3. In terms of Policy H1, it is not considered that the reference to optional Building Regulations standard M4(3) is unnecessarily repeated. Policy H1 requires M4(3) standards for 'Homes for older people' and 'other specialised housing' as these are the demographics that are most likely to need this higher Building Regulation requirement.

Policy E1 – Nature of employment growth

Q105. Should part 2 of the policy refer to logistics development?

Answer

105.1 Core Document [CD1] is applicable to this response.

105.2 The nature of logistics is such that it will likely occur on allocated sites and existing employment sites. The opening paragraph recognises the role logistics development will play in the local economy and encourages development on allocated sites and existing employment sites. Part 2 of the policy aligns with strategic objective 2: 'To seek employment opportunities that will support the diversification of the Borough's economy and improve job opportunities for residents'. To align with the objective part 2 of the policy encourages diversification of the economy based on Council's draft Economic Development Strategy.

Policy E2 – Existing employment sites

Q106. Paragraph 4 of the policy refers to ‘protected employment sites’ – is this referring to the sites listed in Table 19?

Answer

106.1 Core Document [CD1] is applicable to this response.

106.2 Yes, paragraph 9.18 sets out that the Employment Land Review identifies employment sites to protect, and these are listed in Table 19, whilst employment sites not to be protected are listed in Table 20.

Policy TC1 – Town centre requirements

Q107. Unlike the adopted plan, Policy TC1 does not set out specific requirements for town centre uses in Nuneaton and Bedworth town centres. Is this approach justified and is the policy sufficiently precise?

Answer

- 107.1 Core Document [CD1] and Evidence Base Document [EB11] are applicable to this response.
- 107.2 Policy TC1 as drafted within the Borough Plan Review [CD1] provides town centre requirements, however these are set out within the supporting text as opposed to the policy specifying new floor space. Paragraph 10.3 of the supporting text states that the previous requirements were based on work undertaken by the Regional Spatial Strategy. In recent years, main town centre uses have changed and therefore the Council took the approach that new trends need to be considered as part of the Borough Plan Review.
- 107.3 The Retail, Leisure and Office Study (2022) [EB11] recommended that the Council had to move away from traditional roles of the Town Centres to provide flexibility. Further, the extended Permitted Development Rights within The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) enable flexibility for uses based on market driven requirements, therefore the policy does not stipulate specific requirements.
- 107.4 In addition, uses and new buildings within the Town Centres over the next 15 years will be driven by the Transforming Nuneaton and Transforming Bedworth initiatives. These involve a comprehensive programme now being implemented to transform Nuneaton and Bedworth Town Centres. The initiatives seek to take account of ever-changing market demands and the

need to provide social, commercial and environmental activity rather than the traditional town centre role. The details of these initiatives are available: [online](#).

Policy TC2 – Nature of town centre growth

Q108. Reference is made within the second part of the policy dealing with defined town centres and primary shopping areas to the effect of proposals on the 'primary frontages'. The glossary defines primary frontages as 'shopping frontages that include a high proportion of retail uses'. Is this sufficiently clear and unambiguous?

The second part of the policy states:

Policy TC2 – Nature of town centre growth

Defined town centres and primary shopping areas

The town centre boundaries and primary shopping areas of the town centres are to be protected as defined in Appendix E and Appendix F. The aim in defining boundaries will be to retain the predominance of town centre uses within these centres and sustain their primary shopping areas.

Proposals for use classes defined in Annex 2 of the NPPF76 as 'main town centre uses' will be supported within the defined town centres providing the proposal does not detrimentally impact the primary frontages (The Council are intending to provide an Article 4 Direction in the future, in order to be able to remove some prior notification applications for these areas). Other uses will be permitted within the town centres where they do not undermine or adversely impact, either individually or cumulatively, the vitality, viability, character of the area and overall vision for the town centres

Proposals that promote appropriately located tourism and heritage activities, to attract and sustain visitor numbers, will be supported.

Answer

108.1 Core Document [CD1] is applicable to this response.

108.2 In accordance with the NPPF (paragraph 86b), planning policies are required to, "define the extent of town centres and primary shopping areas and make clear the range of uses permitted in such locations, as part of a positive

strategy for the future of each centre”. Policy TC2 seeks to recognise that non-retail uses, such as commercial, leisure, community and cultural facilities, play an important role in supporting town centre vitality and viability. Although the NPPF does not preclude planning policies from defining primary shopping frontages, it is considered the use of the term ‘primary shopping area’ would meet the objectives of the policy. The term ‘primary shopping area’ is defined in national policy and would offer clarity when responding to development proposals. Therefore, a further modification is recommended as follows:

Policy TC2 – Nature of town centre growth

AMEND the first paragraph under sub-heading ‘Defined town centres and primary shopping areas’ of Policy TC2:

The town centre boundaries ~~are~~ and primary shopping areas of the town centres ~~are to be protected as~~ defined in Appendix E and Appendix F. Within the The aim in defining boundaries ‘main town centres uses will be supported in order to retain the Centres vitality and viability’ ~~will be to retain~~ and the predominance of town centre uses within these centres. ~~and sustain their primary shopping areas.~~ These Town Centre uses are defined within Proposals for use classes defined in Annex 2 of the NPPF (footnote76) as ‘main town centre uses’. ~~will be supported within the defined town centres~~ This is providing that proposals do not detrimentally impact the primary shopping area frontages (defined as areas where the retail development is concentrated.) ~~frontages~~ (The Council are intending to provide an Article 4 Direction in the future, in order to be able to remove some prior notification applications for these areas).

108.3 Subsequently, the Council propose the deletion of the term ‘primary frontage’, from the glossary, as this is no longer defined within national policy.

Glossary

DELETE from glossary:

Primary frontages: Shopping frontages that include a high proportion of retail uses.

Policy TC3 – Hierarchy of centres (including district and local centres)

Q109. Part 1 of the policy refers to an 800m walking distance to a district or local centre. This is a reduced distance when compared to the adopted plan (1200m). What is the justification for this?

Policy TC3 – Hierarchy of centres (including district and local centres)

The hierarchy set out in Table 24 should be used to undertake any Sequential Assessments for town centre uses (including district and local centres).

Any new residential development should be within:

1. 800m walking distance of a district or local centre (existing centre's threshold can be outside the Borough's administrative boundaries); and
2. 8 minutes motor vehicle drive time to a district centre. Applications must demonstrate this on the basis of:
 - a. Post development impact.
 - b. During peak drive time.

Where new residential development is proposed and the above thresholds are not met, the application should include the provision of a new district/local centre.

Development within district or local centres will be considered acceptable in principle, subject to the following:

3. The function, vitality and viability are maintained or improved.
4. Contributes positively to the range of services on offer.
5. Does not harm the amenities of local residents.
6. Does not result in the loss of ground floor retail/commercial floor space to residential use.

Answer

109.1 Core Document [CD1] is applicable to this response.

- 109.2 The adopted Borough Plan (2011-2031)¹⁴ refers to a 1200m walking distance to a district or local centre. This was based on The Local Transport Plan 2011-2026¹⁵, which identified a walking threshold of 1200m to something other than a town centre or school. The threshold was applied to the policy in terms of accessing local centres.
- 109.3 The Borough Plan Review has not brought forward this walking threshold. Instead decreasing the distance to 800m. In 2021, the National Design Guide¹⁶ was published, which defines walkable local facilities as “local facilities [that] are within walking distance, generally considered to be no more than a 10-minute walk (800m) radius”. The National Design Guide is 10 years younger than The Local Transport Plan 2011-2026 and is a national, rather than localised (Warwickshire County Council) document. Therefore, the National Design Guide and its recommendation of an 800m walking distance, supersede the previous evidence base and 1200m walking distance recommendation, identified in the adopted Borough Plan (2011-2031).
- 109.4 Furthermore, an Appeal Decision (APP/W3710/W/23/3330615)¹⁷ dated 26th July 2024 states “there are a variety of sources, of varying ages and findings, which give advice and guidance on acceptable walking distances, but all are a guide. Land use patterns that are most conducive to walking are in my experience typically where there are a range of facilities within a 10-minute walk or 800m. Consistent with this recent research in Department for Transport Circular 1/2022 which found walking times between housing and key amenities that regularly exceeded 30 minutes reinforce car dependency”.
- 109.5 Overall, in accordance with recent national guidance an 800m walking distance to a district or local centre is justified, from the Council’s perspective.

¹⁴ [Nuneaton and Bedworth Borough Council \(fs-filestore-eu.s3.eu-west-1.amazonaws.com\)](https://fs-filestore-eu.s3.eu-west-1.amazonaws.com)

¹⁵ [Warwickshire Local Transport Plan](#)

¹⁶ [National design guide.pdf \(publishing.service.gov.uk\)](#)

¹⁷ [Reference: APP/W3710/W/23/3330615 \(planninginspectorate.gov.uk\)](#)

Q110. Should the policy also refer to cycling distance?

Policy TC3 – Hierarchy of centres (including district and local centres)

The hierarchy set out in Table 24 should be used to undertake any Sequential Assessments for town centre uses (including district and local centres).

Any new residential development should be within:

1. 800m walking distance of a district or local centre (existing centre's threshold can be outside the Borough's administrative boundaries); and
2. 8 minutes motor vehicle drive time to a district centre. Applications must demonstrate this on the basis of:
 - a. Post development impact.
 - b. During peak drive time.

Where new residential development is proposed and the above thresholds are not met, the application should include the provision of a new district/local centre.

Development within district or local centres will be considered acceptable in principle, subject to the following:

3. The function, vitality and viability are maintained or improved.
4. Contributes positively to the range of services on offer.
5. Does not harm the amenities of local residents.
6. Does not result in the loss of ground floor retail/commercial floor space to residential use.

Answer

110.1 Core Document [CD1] is applicable to this response.

110.2 No national or local evidence could be sourced to provide sufficient justification for the inclusion of a cycle distance, to district and local centres, in Policy TC3 of the Borough Plan Review. Therefore, this was omitted from the policy.

Q111. Is the list of local centres comprehensive? Have any centres been omitted?

Policy TC3 – Hierarchy of centres (including district and local centres)

The hierarchy set out in Table 24 should be used to undertake any Sequential Assessments for town centre uses (including district and local centres).

Any new residential development should be within:

1. 800m walking distance of a district or local centre (existing centre's threshold can be outside the Borough's administrative boundaries); and
2. 8 minutes motor vehicle drive time to a district centre. Applications must demonstrate this on the basis of:
 - a. Post development impact.
 - b. During peak drive time.

Where new residential development is proposed and the above thresholds are not met, the application should include the provision of a new district/local centre.

Development within district or local centres will be considered acceptable in principle, subject to the following:

3. The function, vitality and viability are maintained or improved.
4. Contributes positively to the range of services on offer.
5. Does not harm the amenities of local residents.
6. Does not result in the loss of ground floor retail/commercial floor space to residential use.

Answer

111.1 Core Documents [CD1] and [CD14] are applicable to this response.

111.2 The glossary of the Borough Plan Review provides definitions of what the Council classify as district and local centres. This Question (MIQ Question 111) specifically asks about local centres. These are defined as providing “for the day-to-day top-up shopping needs of local people on a smaller scale than a district centre”.

- 111.3 The Borough comprises of 18 local centres, plus 6 district centres, as well as numerous neighbourhood centres and stand-alone shops. Paragraph 10.20 of the Borough Plan Review outlines that “the district and local centres are monitored bi-annually to understand how they change year-on-year and to ensure evidence indicates that they are still fit for purpose and meet the day-to-day shopping and service needs of local communities”. Table 25 of the Borough Plan Review also outlines an indicator to monitor the “delivery of new district and local centres” with the target of “new district and local centres as set out in the strategic site policies” coming forward.
- 111.4 The Council’s Authority Monitoring Report 2021-22¹⁸ indicates that 18 local centres are present in the borough. As the data is monitored bi-annually, the Council’s Authority Monitoring Report 2023-24, due to be published later this year, will include the next available monitoring data for local centres. However, after speaking to the Council’s Planning Policy Technical Officer, who monitors this data, no new local centres have been established and the quantity stated in the Borough Plan Review (18) is correct.
- 111.5 Representations 133.4, 134.4 and 135.4, received in relation to the Regulation 19 consultation on the Borough Plan Review [CD14], state they consider “clusters of facilities...have been omitted from inclusion as Local Centres”. Representation 134.4 names Woodlands Lane as an omitted local centre, as it “provides a shop offering various services and also a GP surgery”. Policy TC3 outlines appropriate uses of a local centres to be “Hairdressers, Newsagents, Small convenience stores and sub-post offices”.
- 111.6 The Council does not consider Woodlands Lane to be a local centre as, after reviewing the quantity of units and the types of services provided, in the 18 local centres already designated in the borough, the lowest number of units within a local centre is three and only one local centre, with a total of five units, includes a GP surgery. It is the Council’s view that a GP surgery is a medical service that isn’t used daily and therefore, does not constitute a service that meets local resident’s day-to-day top-up shopping needs or day-to-day services. Visiting a doctor or nurse is not a form of shopping. In turn,

¹⁸ [v18-authority-monitoring-report-2021-2022 \(nuneatonandbedworth.gov.uk\)](https://nuneatonandbedworth.gov.uk/v18-authority-monitoring-report-2021-2022)

Woodlands Lane only comprises of one unit that would meet the definition of a local centre establishment. Therefore, the Council does not consider that Woodlands Lane fits within the designation of a local centre.

- 111.7 Overall, the Council considers the list of local centres, specified in Policy TC3 of the Borough Plan Review, to be comprehensive with no sites omitted from local centre designation.

Policy HS1 – Ensuring the delivery of infrastructure

Q112. Is the policy wording sufficiently clear and are all of the policy requirements necessary or would it be more appropriate for some (e.g. part 4 of the policy) to be included in supporting text?

Part 4 of the policy states:

Policy HS1 – Ensuring the delivery of infrastructure

Developers should get in contact with utilities, including Severn Trent Water, as early as possible in the planning process, to ensure infrastructure can be provided in a timely manner.

Answer

112.1 Core Document [CD1] is applicable to this response.

112.2 It is recommended that reference to Severn Trent Water is not necessarily a policy requirement but guidance, so it is suggested that this is moved to the supporting text.

112.3 Reference to SPD's has been removed, similarly to cumulative impacts to infrastructure, and also it is suggested that where it states, "All developments must consider the impact on provision of services and facilities and where there is an impact this must be addressed" should also be removed, as these are unclear and therefore conflict with the NPPF (paragraph 16f).

112.4 The Council is proposing a modification to Policy HS1 to ensure the policy is sufficiently clear and all the policy requirements are necessary.

Policy HS1 – Ensuring the delivery of infrastructure

AMEND Policy HS1 to read:

Development will be required to provide infrastructure appropriate to the scale and context of the site in order to mitigate any impacts of the development, and address the needs associated with the development. It may be related to social, economic and / or environmental provision. ~~Supplementary Planning Guidance and documents will be used to guide provision where relevant. Where this provision is considered unviable the application should provide clear evidence to demonstrate this.~~

~~Development needs to consider the cumulative impacts to existing infrastructure and for any potential large scale transport facilities required for the wider economy (including adequate overnight lorry parking).~~

New infrastructure must be resilient **to the long terms implications of** climate change **such as additional flooding, water supply issues and overheating** and ~~demonstrate how development considers carbon neutral emissions by 2050.~~ New infrastructure must promote public safety and the wider security and defence requirements.

~~Developers should get in contact with utilities, including Severn Trent Water, as early as possible in the planning process, to ensure infrastructure can be provided in a timely manner.~~

Infrastructure delivery should be suitable phased within the associated development, and where appropriate, arrangements should be made for subsequent maintenance. Applications which provide new facilities will be supported, subject to agreement with appropriate service providers.

~~All developments must consider the impact on provision of services and facilities and where there is an impact this must be addressed.~~ **Supplementary Planning**

Guidance and documents will be used to guide provision. Infrastructure requirements are outlined in the Infrastructure Delivery Plan (IDP). The IDP is a live document, the list is not exhaustive as each will be taken on a site by site basis. Other site-specific measures will be considered at the time of planning permission. These ~~The delivery of infrastructure provision / or improvement will be secured through the use of planning obligations / agreements (e.g Section 106, Section 278 and any future adopted mechanisms) and / or conditions. All development will be expected to contribute proportionately and in compliance with national policy, statute and relevant SPDs and guidance to infrastructure provision.~~ **It will be necessary to ensure the ongoing maintenance, where appropriate, of any infrastructure provision.**

Policy HS1 – Ensuring the delivery of infrastructure

ADD to supporting text after Policy HS1:

Developers should get in contact with utilities, including Severn Trent Water, as early as possible in the planning process, to ensure infrastructure can be provided in a timely manner.

Q113. Is there a need for this policy and/or supporting text to refer to foul drainage and the water cycle study or is this addressed by Policy BE3?

Answer

113.1 In response to the Regulation 19 consultation, the Environment Agency [Representation 13.10] commented in relation to Policy HS1 that reference should be made to the Water Cycle Study and the order of preference for foul waste water [CD4].

113.2 Policy NE4 – Managing flood risk and water quality primarily addresses foul drainage. The recommendations from the Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA) have been woven into several policies throughout the plan, particularly within Policy NE4. As set out in response to Question 145 reference to the Water Cycle Study is proposed to be added to the supporting text of this policy and further reference in relation to water efficiency is made in the supporting text to Policy BE3. Therefore, the Council consider these matters are sufficiently addressed within the Plan and to avoid repetition it is not proposed that reference within the policy and / or supporting text to Policy HS1.

Q114. Should the policy refer to EV charging stations?

The requirement is not within Policy HS1, but it is within Policy HS2 as follows:

Policy HS2 – Strategic accessibility and sustainable transport

Where a development is likely to have transport implications, planning applications are required to clearly demonstrate how the following issues will be addressed: ...

3. How the proposal accords with the Council's adopted Transport Demand Management Matters (2022) and Air Quality (2020) SPDs. Development must consider the cumulative impact on air quality and measures proposed to ensure the impact is not exacerbated, sustaining and contributing towards compliance with relevant limit values or natural objectives for pollutants, taking into account the presence of AQMAs and Clean Air Zones. The Council will require measures for new development to provide infrastructure to deal with the issues of air quality, which at a minimum, development will need to provide electric vehicle charging points and dust management plans.

Answer

- 114.1 Core Documents [CD1] and [CD14] are applicable to this response.
- 114.2 The requirement for development to provide electric vehicle charging points is included in Policy HS2 – Strategic accessibility and sustainable transport. A response to the Regulation 19 consultation [CD14] from Holt Property Limited (response representation 109.12) refers to the need for Policy HS1 to mention EV charging stations.
- 114.3 The Council adopted its Air Quality SPD in 2020 and the Transport Demand Management Matters – Parking Standards SPD in 2022. These SPD's set out the requirement for residential and non-residential developments.
- 114.4 In light of the above, the Council considers that reference to EV charging points is appropriate, within Policy HS2, given it relates to sustainable transport and therefore should not be repeated within Policy HS1 which deals with broader infrastructure matters.

Policy HS2 – Strategic accessibility and sustainable transport

Q115. Should the policy refer to EV charging stations?

The relevant part of the policy states as follows:

Policy HS2 – Strategic accessibility and sustainable transport

Where a development is likely to have transport implications, planning applications are required to clearly demonstrate how the following issues will be addressed: ...

3. How the proposal accords with the Council's adopted Transport Demand Management Matters (2022) and Air Quality (2020) SPDs. Development must consider the cumulative impact on air quality and measures proposed to ensure the impact is not exacerbated, sustaining and contributing towards compliance with relevant limit values or natural objectives for pollutants, taken into account the presence of AQMAs and Clean Air Zones. The Council will require measures for new development to provide infrastructure to deal with the issues of air quality, which at a minimum, development will need to provide electric vehicle charging points and dust management plans.

Answer

115.1 Core Document [CD1] is applicable to this response.

115.2 As set out in response to Question 114, the Council considers Policy HS2 is the appropriate policy to reference EV charging points. The reference to electric charging points is aligned with that in the adopted Borough Plan (2011-2031), within Policy HS2, which then forms the basis for the Air Quality and Transport Demand Management Matters – Parking Standards SPDs. In terms of charging stations these are discussed in the Council's response to Question 156.

Q116. As currently worded, are the requirements of part 5 of the policy too onerous? Is more flexibility required?

The relevant parts of Policy HS2, relating to this Question, state the following:

5. How the development maximises sustainable transport options such as safe walking and cycling links to the wider transport network. Development needs to include the provision of secure cycle parking, easier access to rental bikes, e-bike hubs, lockers and showers in new workplace developments and appropriate shelter or cooling along the walking and cycling links.

There were some minor punctuation changes to the criterion in the previously suggested additional modifications [CD22] as follows:

AMEND punctuation in Policy box criteria 5 to read:

5. How the development maximises sustainable transport options such as safe walking and cycling links to the wider transport network. Development needs to include the provision of secure cycle parking; easier access to rental bikes; e-bike hubs; lockers and showers in new workplace developments; and appropriate shelter or cooling along the walking and cycling links.

Answer

116.1 Core Documents [CD1] and [CD22] are applicable to this response.

116.2 The Council notes the comments about the requirements being too onerous and suggests a further modification to part 5 of the policy, to ensure that the policy provides flexibility as follows:

Policy HS2 – Strategic accessibility and sustainable transport

AMEND criteria 5 of Policy HS2:

5. ~~How the~~ **All** developments **s must** maximises sustainable transport options such as safe walking and cycling links to the wider transport network. ~~Development needs to include the provision of secure cycle parking easier access to rental bikes, e-bike hubs, lockers and showers in new workplace developments and appropriate shelter or cooling along the walking and cycling links.~~ **New developments which provide employment should include facilities to encourage the use of sustainable modes of transport to work.**

Policy HS2 – Strategic accessibility and sustainable transport

ADD to supporting text:

New employment premises should consider how sustainable transport can be maximised by employees this includes methods such as the: provision of additional bus stops; promoting car sharing; safe walking and cycling routes; secure cycle parking; access to rental bikes or employee schemes for purchasing bicycles; e-bike hubs; lockers and showers.

Q117. The policy refers to support being given to lorry parking facilities in specific locations. Does this need to be caveated? For example, only where they meet the relevant policies in the Plan, a phrase used in other policies?

The relevant parts of Policy HS2, relating to this Question, state the following:

Policy HS2 – Strategic accessibility and sustainable transport

Proposals for dedicated lorry parking facilities will be supported where they form extensions to, or are adjoining, existing employment land comprising of predominantly B8 uses or as part of a new predominantly B8 use development.

Answer

117.1 Core Document [CD1] is applicable to this response.

117.2 Provision of lorry parking facilities has been included in the policy due to the requirements in paragraph 109 of the NPPF:

“Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.”

117.3 However, for consistency with other policies, it is suggested that the policy wording could be changed as follows:

Policy HS2 – Strategic accessibility and sustainable transport

ADD to paragraph 4 of HS2 to read:

Proposals for dedicated lorry parking facilities will be supported where they form extensions to, or are adjoining, existing employment land comprising of predominantly B8 uses or as part of a new predominantly B8 use development, **subject to proposals satisfactorily meeting with the relevant policies in this Borough Plan Review.**

Policy HS4 – Retaining and expanding community facilities

Q118. Is this policy consistent with the Framework? In particular, given that it relates to the loss of open space and sports facilities, is it consistent with paragraph 99 of the Framework?

The current policy states the following:

Policy HS4 – Retaining and expanding community facilities

Proposals for development which would lead to the loss of community facilities will only be permitted where:

- adequate alternative facilities and services are available locally; or
- access to locally alternative facilities are enhanced; or
- better replacement facilities are proposed nearby; or
- it can be clearly demonstrated that there is no longer a demand or is surplus to requirements for the use. Alternatively, the use is no longer viable/appropriate and that there is a greater benefit to the area resulting from the proposed use.

New development serving a local community or business need (especially in rural areas or where not served by public transport) will be encouraged unless material considerations indicate otherwise.

Amendments were recommended to this Policy in the form of an additional modification [CD22] to delete the word 'viable' (refer to the Council's response to Q121).

Policy HS4 – Retaining and expanding community facilities

DELETE the word 'viable' in the last bullet of the Policy box to read:

Proposals for development which would lead to the loss of community facilities will only be permitted where:

- adequate alternative facilities and services are available locally; or
- access to locally alternative facilities are enhanced; or
- better replacement facilities are proposed nearby; or
- it can be clearly demonstrated that there is no longer a demand or is surplus to requirements for the use. Alternatively, the use is no longer ~~viable~~/appropriate and that there is a greater benefit to the area resulting from the proposed use.

New development serving a local community or business need (especially in rural areas or where not served by public transport) will be encouraged unless material considerations indicate otherwise.

The reasoning given in the modification was:

As required by Sport England following comments in representation ref. 11.9. Considered an additional modification as the removal of the word simply means that a use cannot be purposely run down to make it unviable and does not affect the soundness or legal compliance. It simply replicates standard guidance from the Environment Agency

Also, additional modifications were suggested [CD22] to Policy HS4 in the form of new supporting text to read:

Policy HS4 – Retaining and expanding community facilities

COPY paragraph 11.57 and 11.58, in the supporting text of policy HS6, into the supporting text of policy HS4 after paragraph 11.41 to read:

Paragraph 99 of the NPPF contains detailed planning application requirements associated with open space and sports, recreational buildings and land, including playing field losses. These are identified below:

- **Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:**
 - o an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or**

o the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
o the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The policy does not repeat these requirements; however, it is expected that applications take account of this policy and the wider NPPF requirements. In any case, approval and sign off from Sports England will be required.

The reasoning for the modification was:

As required by Sport England following comments in representation ref 11.10.

Considered an additional modification as it is simply repeating National legislation and does not affect the soundness or legal compliance.

Answer

118.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

118.2 NPPF paragraph 93c states that planning policies should guard against the unnecessary loss of valued facilities and services. It is considered that Policy HS4 is consistent with this.

118.3 The Policy was not originally intended for the loss of open space or sports facilities but other community facilities such as public houses, community centres, health facilities etc, but Sport England requested that such uses were added (preferred options response reference 16.9). All of these uses, including those requested by Sport England, are listed in supporting text paragraph 11.40 of the policy.

118.4 However, during writing these MIQ responses, the Council has considered our position in relation to Policy HS4 and the loss of open space and playing fields. The Council consider Policy HS4 to be the lead policy in regard to community facilities such as public houses, allotments and cultural facilities.

The Council does not consider it appropriate for the loss of open space and playing fields to sit under Policy HS4. Instead, Policy HS6, specifically relating to sport and exercise, is the most appropriate location. Paragraph 11.57 of the supporting text to Policy HS6 details the requirements of paragraph 99 of the NPPF.

118.5 It is also noted that some of the policy text repeats the meaning of other bullets so it is proposed that 'surplus to requirements' is removed.

118.6 The Council note the contents of this MIQ Question and therefore suggest a further modification to Policy HS4. This is to remove reference to paragraph 99 of the NPPF, regarding the loss of open space and playing fields and to ensure the policy is clear and consistent with the NPPF (relating to retaining and expanding community facilities (not including sport and exercise provisions)).

Policy HS4 – Retaining and expanding community facilities

AMEND and AMEND Policy HS4 to read:

Proposals for development which would lead to the loss of community facilities **(as defined within paragraph 11.40 of the supporting text)** will only be permitted where:

- ~~A~~adequate alternative facilities and services are available locally; or
- access to locally alternative facilities are enhanced; or
- **better services will be provided nearby which are greater benefit to the area than the current or former use; or**
- ~~Better Replacement facilities are proposed nearby; or~~
- it can be clearly demonstrated that there is no longer a demand ~~or is surplus to requirements~~ for the use. Alternatively, the use is no longer ~~viable~~ appropriate and that there is a greater benefit to the area resulting from the proposed use.

For reference to Sports centres, indoor sports and recreational buildings and land, and sports and playing fields, refer to Policy HS6 – Sport and exercise.

New development serving a local community or business need (especially in rural areas or where not served by public transport) will be encouraged unless material considerations indicate otherwise.

Policy HS4 – Retaining and expanding community facilities

AMEND paragraph 11.40:

11.40 Community facilities have an important role within the local community, contributing towards community cohesion, health and well-being, ~~delivering sport and physical activity~~, as well as the sustainability of a local area. The loss of existing community facilities will be resisted to ensure that suitable provision remains spread across the borough. Examples of community facilities are listed below, however it should be noted that this list is not exhaustive:

- ~~Sports centres and~~ **M**ulti-use halls.
- Allotments.
- Public houses.
- Health facilities.
- Places of worship.
- Cultural facilities.
- Schools.
- ~~Open space.~~
- Green spaces / parks.
- ~~Indoor sports and recreational buildings and land.~~
- ~~Sports and playing fields.~~
- Play areas.
- Community centres.

- Local shops.

118.7 The modification proposed in [CD22] regarding adding paragraph 99 of the NPPF to the supporting text of Policy HS4, is no longer a suggestion, by the Council and should not be considered further, by the Inspectors.

Q119. Bullet point three of the policy requires better replacement facilities nearby. Is this justified given that the Framework requires equivalent or better facilities?

The current criterion referred to states the following:

- better replacement facilities are proposed nearby; or

Answer

119.1 Core Document [CD1] is applicable to this response.

119.2 Please refer to the Council's response to Question 118 as this criterion has now been proposed to be deleted and instead, replaced with:

“better services will be provided which are greater benefit to the area than the current or former use;”

Q120. Would it be more appropriate/effective for the loss of open space / sports facilities to be dealt with by either Policy HS6 – Sport and exercise and/or Policy NE2 – Open space and playing fields?

Answer

120.1 Core Document [CD1] is applicable to this response.

120.2 It is considered that open space and sports, recreational buildings and land, including playing field losses, are relevant to Policy HS6, rather than Policy HS4. Policy HS4 focuses on community facilities such as cultural facilities and public houses. The Council considers that Policy HS6, regarding sport and exercise, is a more appropriate policy location, as a lead policy on the subject. Therefore, paragraph 99 of the NPPF is included in the supporting text of Policy HS6 (paragraph 11.57).

Q121. Is it appropriate to refer to a use no longer being viable in the policy?

Suggested additional modifications [CD22] already recommend that the wording is deleted as follows:

DELETE the word 'viable' in the last bullet of the Policy box to read:

Proposals for development which would lead to the loss of community facilities will only be permitted where:

- adequate alternative facilities and services are available locally; or
- access to locally alternative facilities are enhanced; or
- better replacement facilities are proposed nearby; or
- it can be clearly demonstrated that there is no longer a demand or is surplus to requirements for the use. Alternatively, the use is no longer ~~viable~~/appropriate and that there is a greater benefit to the area resulting from the proposed use.

New development serving a local community or business need (especially in rural areas or where not served by public transport) will be encouraged unless material considerations indicate otherwise.

Answer

121.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

121.2 Sport England, in their representation to the Publication version of the Borough Plan Review [CD14] (response reference 11.9), requested that the word 'viable' was deleted, as they considered that the wording would give developers the opportunity to allow a use to purposely become run down, to make it unviable. Therefore, this was subsequently included within the suggested additional modifications [CD22] as per above.

Policy HS5 - Health

Q122. The policy refers to Health Impact Assessment Screening Report and Health Impact Assessment. A Health Impact Assessment is defined in the glossary to the Plan, but a Health Impact Assessment Screening Report is not. In order for the policy to be effective should it be?

The Policy wordings states as follows:

Policy HS5 – Health

All major development proposals will be required to demonstrate that they would have an acceptable impact on health and wellbeing. This should be demonstrated through a:

- Health Impact Assessment Screening Report which demonstrates that the proposed development would not overall give rise to negative impacts in respect of health and wellbeing; or
- Health Impact Assessment where significant impacts on health and wellbeing would arise from that proposal.

All Health Impact Assessments shall be undertaken in accordance with the Council's adopted Health Impact Assessment SPD (2021).

Where a development has significant negative or positive impacts on health and wellbeing, the Council may require applicants to provide for the mitigation or provision of such impacts through planning conditions and/or financial/other contributions secured via planning obligations.

Answer

122.1 Core Document [CD1] is applicable to this response.

122.2 Health Assessment work was carried out as an evidence piece of work for the previous Local Plan which was titled: 'Health Impact Assessment - Nuneaton and Bedworth Borough Plan - Public Health Warwickshire Assessment document V4 (30th May 2014)' Ben Cave Associates Ltd. A copy of this has been provided with the MIQ responses (Appendix C). Furthermore, the

information was then used within a Borough Plan Background Paper - Health Nuneaton and Bedworth Borough Council 2015¹⁹.

The pieces of work were carried out with the full cooperation of Public Health and recognised the poor health within the Borough as opposed to the rest of Warwickshire. This was recognised within paragraph 3.4 page 9 of the Borough Plan Review, within the 'Council's Corporate Plan Building for a Better Borough 2022'²⁰. and as referred in the Council's responses to Questions 20 and 21. The Council's response to Question 21 specifically refers to the work it carried out with Public Health and the Joint Strategic Needs Assessments and which, as part of this group work, all the Council's within Warwickshire chose to require Health Assessments with planning applications.

- 122.3 The Council suggests a proposed modification to include a definition for a Health Impact Assessment Screening Report, in the glossary, in order for the policy to be effective.

Glossary

Add to glossary to read:

Health Impact Assessment Screening Report: A preliminary evaluation assessing potential health impacts within a planning application to determine if a full Health Impact Assessment is needed

¹⁹ [BOROUGH PLAN BACKGROUND PAPER - Health \(nuneatonandbedworth.gov.uk\)](https://nuneatonandbedworth.gov.uk/borough-plan-background-paper-health)

²⁰ [Corporate plans – Nuneaton and Bedworth Borough Council](#)

Policy HS6 – Sport and Exercise

Q123. Is the policy consistent with the Framework and Policy HS4 – Retaining and expanding community facilities? Is it necessary for the loss of sports pitches and playing fields to be addressed in both Policy HS4 and Policy HS6?

Policy HS6 – Sport and Exercise

Proposals which assist in creating a healthier environment across the Borough, using sports, leisure and recreational facilities and/or opportunities to exercise, will be supported.

Existing local sports pitches and playing fields should be retained unless justification can be provided as to why they are no longer required or that proves alternative suitable provisions can be provided.

New developments including strategic housing sites, will be required to plan from the outset for the integrated planning of a healthy environment for its communities. This includes the provision and maintenance for sport, physical activity and community facilities, as well as green infrastructure, open space, allotments and walking and cycling routes in line with policies NE1 – Green infrastructure and NE2 – Open space. New facilities, links and spaces should relate well to other areas, and be safe, convenient, accessible and functional. Spaces should be resilient to and mitigate for climate change and include natural planting to provide shaded outdoor spaces and to help with air filtration.

Where justified on-site, housing sites will need to provide the land for the facility at no cost, in a suitable location within the site. Where provision is justified, but not on-site, then an off-site contribution will be required to fund the facility and the land required for the facility. Where requirements stated in the Playing Pitch and Outdoor Sports Strategy cannot be met off-site, provisions may be required on-site.

In ensuring the timely delivery of infrastructure requirements, development proposals must demonstrate that full regard has been paid to the IDP all other policies and relevant strategies, including the Playing Pitch and Outdoor Sports Strategy; Sport, Recreation and Community Facilities Strategy; Open Space Strategy; Green Infrastructure Strategy; Indoor Leisure Facilities Needs Strategy and Allotment Strategy, or documents that formally superseded them. The on-site

provision, maintenance and management of sports and recreation facilities provided, will be secured through planning obligation, as they will be needed to make the development acceptable in planning terms.

The scale, design and specification of facilities sought will be calculated and provided based on provision standards, facility specifications and needs, and costs as set out in relevant strategies. Additionally, the facilities will need to meet the Regulation 122 Tests set out in The Community Infrastructure Levy Regulations 2010 or subsequent amendments.

Answer

- 123.1 Core Documents [CD1], [CD6.7] and [CD14], alongside Evidence Base Document [EB14], are applicable to this response.
- 123.2 The Council considers that Policy HS6 is consistent with the NPPF. The NPPF should be adhered to, as national planning policy, but local planning policy may build upon it, to ensure the local area is considered fully, taking into consideration local needs and circumstances.
- 123.3 As more strategic and non-strategic housing developments, proposed in the Borough Plan Review, are brought forward, open space, sports and recreational buildings and land, including playing fields, will be used more frequently. In turn, Policy HS6 builds upon the requirements of the NPPF, by requiring the following: “Where there is provision of new on-site sports and recreational facilities these will also require contributions for maintenance. This also applies to open space, green infrastructure, playing fields and allotments. Open space and other green infrastructure will be funded for 20 years”. This text can be found in the supporting text of Policy HS6 (paragraph 11.59 of the Borough Plan Review).
- 123.4 To clarify, leisure maintenance contributions are not requested for sport facilities whilst contributions toward open space provision and facility maintenance, for a 20-year period, only applies to public open space and play facilities that do not generate income. The underpinning calculation for the sums requested, utilises a combination of ground maintenance contract rates, covering grass cutting, litter picking, bin emptying etc. and where grounds contract rates are not available, utilises rates and costings based on typical

average costs and rates that the Parks and Greenspace team face; for example, occasional / intermittent repairs such as boundary treatments, site furniture and paths. The rates are set within a spreadsheet and consistently applied so that all developments are treated consistently. A quarterly inflation uplift is applied relative to the original base figures so that the real value of contributions is not undermined through the passage of time, because of inflation. Furthermore, no capital replacement costs are included for the end of useful working life of items and/or facilities within the cost calculations.

123.5 In turn, paragraph 11.59 of the Borough Plan Review ensures that the open space and green infrastructure, provided in the borough, can be maintained for its long-term use by current and future residents.

123.6 The NPPF also states; “planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreational facilities (including quantitative and qualitative deficits or surpluses) and opportunities for new provision”. Paragraph 11.56 of the Borough Plan Review addresses this, stating “the Council has undertaken studies to identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area”. The main study undertaken was the Council’s Playing Pitch and Outdoor Sports Strategy (2023-2038) [EB14].

123.7 The Council does not consider it necessary for the loss of sports pitches and playing fields to be addressed in both Policies HS4 and HS6. As shown in the Preferred Options²¹ version of the Borough Plan Review, the loss of sports pitches and playing fields was originally addressed in Policy HS4. However, in line with Sport England’s representations, to the Regulation 19 consultation on the Borough Plan Review [CD14], a modification was proposed to include the loss of sports and playing fields in Policy HS6 as well. Furthermore, Sport England would not progress a Statement of Common Ground [CD6.7], in line with the Duty to Cooperate, and prior to submitting the Borough Plan Review

²¹ [Borough Plan Review - Preferred Options - FINAL 09.06.2022.pdf \(fs-filestore-eu.s3.eu-west-1.amazonaws.com\)](#)

for examination, without the proposed modification (including the loss of sports pitches and playing fields in both policies).

123.8 However, the Council has been considering our position on this and has decided that Policy HS6 should be the lead policy in relation to the loss of sports pitches and playing fields, aligning closely with paragraph 99 of the NPPF. The policy outlines four options, that development proposals, resulting in the loss of community facilities, including sports and playing fields, could follow to work towards gaining planning permission. In turn, the Council has decided to no longer utilise Sport England's advice in terms of HS4 and this is therefore now contrary to that part of the Statement of Common Ground with Sport England [CD6.7].

123.9 It is of the Council's opinion that repetition should be avoided and the loss of sports pitches and playing fields should be removed from Policy HS4. This will remove any ambiguity as well as overlap between the two policies. This modification is proposed in Question 118 ensuring Policy HS4 solely focuses on community facilities such as cultural facilities and allotments whilst Policy HS6 focuses on sport and exercise, including any potential losses.

Q124. Is the policy sufficiently clear about when sport and exercise facilities will be required to be provided on and off site?

Policy HS6 – Sport and Exercise

Proposals which assist in creating a healthier environment across the Borough, using sports, leisure and recreational facilities and/or opportunities to exercise, will be supported.

Existing local sports pitches and playing fields should be retained unless justification can be provided as to why they are no longer required or that proves alternative suitable provisions can be provided.

New developments including strategic housing sites, will be required to plan from the outset for the integrated planning of a healthy environment for its communities. This includes the provision and maintenance for sport, physical activity and community facilities, as well as green infrastructure, open space, allotments and walking and cycling routes in line with policies NE1 – Green infrastructure and NE2 – Open space. New facilities, links and spaces should relate well to other areas, and be safe, convenient, accessible and functional. Spaces should be resilient to and mitigate for climate change and include natural planting to provide shaded outdoor spaces and to help with air filtration.

Where justified on-site, housing sites will need to provide the land for the facility at no cost, in a suitable location within the site. Where provision is justified, but not on-site, then an off-site contribution will be required to fund the facility and the land required for the facility. Where requirements stated in the Playing Pitch and Outdoor Sports Strategy cannot be met off-site, provisions may be required on-site.

In ensuring the timely delivery of infrastructure requirements, development proposals must demonstrate that full regard has been paid to the IDP all other policies and relevant strategies, including the Playing Pitch and Outdoor Sports Strategy; Sport, Recreation and Community Facilities Strategy; Open Space Strategy; Green Infrastructure Strategy; Indoor Leisure Facilities Needs Strategy and Allotment Strategy, or documents that formally superseded them. The on-site provision, maintenance and management of sports and recreation facilities provided, will be secured through planning obligation, as they will be needed to make the development acceptable in planning terms.

The scale, design and specification of facilities sought will be calculated and provided based on provision standards, facility specifications and needs, and costs as set out in relevant strategies. Additionally, the facilities will need to meet the Regulation 122 Tests set out in The Community Infrastructure Levy Regulations 2010 or subsequent amendments.

Answer

- 124.1 Core Documents [CD1] and [CD14], alongside Evidence Base Document [EB14], are applicable to this response.
- 124.2 Paragraph four of Policy HS6, beginning with 'where justified' is linked to this Question (124).
- 124.3 A similar paragraph is provided in the adopted Borough Plan (2011-2031) and no representations from Sport England to the Regulation 19 consultation on the Borough Plan Review [CD14], raised any comments in relation to this paragraph (four) of the policy.
- 124.4 However, two representations to the Regulation 19 consultation [CD14] (representation references 115.24 and 122.9) state similar comments. Representation 115.24 reads "Policy HS6 requires, 'where justified', either the provision of land for sports, leisure and recreation facilities on-site at no cost or an off-site contribution to fund the facility and the land for the facility. X does not contest the appropriateness of providing a justified and proportionate contribution to sports, leisure and recreation where this is viable, however it is recommended that the circumstances in which delivery will be considered are justified as set out within the policy".
- 124.5 The key development principles for each strategic site, outlined within the Borough Plan Review, provide details of any on-site sports and exercise provisions required, off-site contributions and/or on-site land for these facilities. These contributions and provisions would be agreed on as part of the development and signing of a Section 106 Agreement at the full or outline application stage.
- 124.6 The current position within Nuneaton and Bedworth is that the leisure provision is at capacity and cannot meet future new resident's needs, with existing leisure facilities, without increasing and/or extending facilities. Data was analysed as part of the completion of the Sport Recreation and Community Facilities Strategy and used Sports England's "Facility Planning Models". The summary details of these original finding can be found in the Council's Infrastructure Delivery Plan (IDP) (2021). Section 16 of the IDP (2021) onwards, sets out the detailed policy justification and refers to the

relevant robust and up-to-date strategies: the Indoor Sports Facility Needs Assessment and Strategy 2019-2034 (September 2020).

- 124.7 It is also important to mention that the tipping point for off-site/on-site provision for both grass pitches and artificial pitches (which are either sand based/dressed or a water playing surface) is 70%. Below this the provision is off-site, above this it is on-site. This accords with the IDP (2021).
- 124.8 The provision of on and off-site sport and exercise facilities links to the Borough Plan Review's²² vision for Nuneaton and Bedworth Borough ("the natural and built environment of the Borough will be improved through ... higher quality open spaces and leisure facilities") and the Corporate Plan for the borough – Building a Better Borough (2022)²³. The Playing Pitch and Outdoor Sports Strategy [EB14] also provides "planning guidance to assess development proposals affecting outdoor sports facilities, as appropriate, directing open space contributions secured through development and informing and shaping local planning policy".
- 124.9 Overall, the Council considers that the policy is sufficiently clear about when sport and exercise facilities will be required to be provided on and off site, with provisions and contributions specified in site-specific policies in the Borough Plan Review, as well as in the IDP and Playing Pitch and Outdoor Sports Strategy [EB14]. The provision of sport and exercise facilities, in the borough, is an important factor in bringing forward potential future development.

²² [cd1-publication-version-of-the-borough-plan-review-2021-2039- \(nuneatonandbedworth.gov.uk\)](#)

²³ [building a better borough document for cabinet 2022 copy \(nuneatonandbedworth.gov.uk\)](#)

Q125. Paragraph 11.54 refers to the need for developers to collaborate on the provision of infrastructure which is needed to serve more than one site. Is there sufficient detail within the plan about how this collaboration should be done?

Policy HS6 – Sport and Exercise

Proposals which assist in creating a healthier environment across the Borough, using sports, leisure and recreational facilities and/or opportunities to exercise, will be supported.

Existing local sports pitches and playing fields should be retained unless justification can be provided as to why they are no longer required or that proves alternative suitable provisions can be provided.

New developments including strategic housing sites, will be required to plan from the outset for the integrated planning of a healthy environment for its communities. This includes the provision and maintenance for sport, physical activity and community facilities, as well as green infrastructure, open space, allotments and walking and cycling routes in line with policies NE1 – Green infrastructure and NE2 – Open space. New facilities, links and spaces should relate well to other areas, and be safe, convenient, accessible and functional. Spaces should be resilient to and mitigate for climate change and include natural planting to provide shaded outdoor spaces and to help with air filtration.

Where justified on-site, housing sites will need to provide the land for the facility at no cost, in a suitable location within the site. Where provision is justified, but not on-site, then an off-site contribution will be required to fund the facility and the land required for the facility. Where requirements stated in the Playing Pitch and Outdoor Sports Strategy cannot be met off-site, provisions may be required on-site.

In ensuring the timely delivery of infrastructure requirements, development proposals must demonstrate that full regard has been paid to the IDP all other policies and relevant strategies, including the Playing Pitch and Outdoor Sports Strategy; Sport, Recreation and Community Facilities Strategy; Open Space Strategy; Green Infrastructure Strategy; Indoor Leisure Facilities Needs Strategy and Allotment Strategy, or documents that formally superseded them. The on-site provision, maintenance and management of sports and recreation facilities provided, will be secured through planning obligation, as they will be needed to make the development acceptable in planning terms.

The scale, design and specification of facilities sought will be calculated and provided based on provision standards, facility specifications and needs, and costs as set out in relevant strategies. Additionally, the facilities will need to meet the Regulation 122 Tests set out in The Community Infrastructure Levy Regulations

Answer

- 125.1 Core Document [CD1] is applicable to this response.
- 125.2 After reviewing Policy HS6 and the supporting text, the Council agrees that paragraph 11.54 does not provides sufficient detail regarding how developer collaboration should be carried out.
- 125.3 Collaboration between the Council and developers is usually dealt with during the development and signing of a Section 106 agreement at full or outline application stage. However, this is not applicable to the collaboration that is sometimes required between landowners/developers to ensure the provision of infrastructure, which is needed to serve more than one site/or phase, is brought forward.
- 125.4 The Council considers that it is important for the Borough Plan Review to highlight the importance of landowners/developers collaborating, across sites and acknowledge that sufficient detail should be provided by developers on how this can be achieved. Therefore, two modifications are proposed, as follows:

Policy HS6 'Sport and exercise'

REMOVE supporting text under paragraph 11.54 of Policy HS6 'Sport and exercise' as follows:

~~11.54 Developers will be expected to collaborate on the provision of infrastructure which is needed to serve more than one site.~~

ADD the following to the policy text box of Policy SA1:

Strategic sites that are to be developed in separate parcels or phases; in different land ownership; or to be developed by more than one developer, must demonstrate that a collaboration agreement has taken place between the parties. This is to evidence 'equalisation' between the owners/phases, to ensure that on-site requirements and infrastructure facilities such as schools, open space, parks and affordable housing are shared equally across the phases. Collaboration will need to prescribe the rules of engagement between owners/developers. The possible methods for this are:

- **A legal equalisation agreement between the parties, to ensure the provision of onsite infrastructure and affordable housing is distributed fairly across the site.**
- **A land pooling trust involving the landowners transferring land into a trust with shares in proportion to their original ownership.**
- **The approval of a masterplan for the entire site at the initial outline stage, with demonstration of a formal agreement between all participants on the land involved.**

Policy HS7 – Creating a healthier food environment

The policy states:

Policy HS7 – Creating a healthier food environment

To limit development of environments that encourage obesity, hot food takeaways (now use class sui generis, formerly use class A5), should be directed to town centres as set out in 'Policy TC3 – Hierarchy of centres (including district and local centres'.

Outside of Nuneaton and Bedworth town centres, hot food takeaway proposals will be permitted in district or local centres providing the proposal does not increase the number of units of hot food takeaways to over 20% of the centre's total usage.

Outside of the defined town, district and local centres, hot food takeaways will only be supported where:

- It is demonstrated that the proposal will not have a significant adverse impact on residential amenity through odour, noise and litter.
- Deliveries or customer visits by car would not have an unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety.
- The proposal is not within a 400m radius, of the boundary, of an existing primary or secondary school (including any special school, sixth form college or academy). This will not apply when the buffer zone overlaps with a town or local centre.
- The proposal does not jeopardise the provision of an essential local service.
- A Sequential Assessment is provided, which demonstrates that there are no other sequentially preferable sites.

Proposals should be in accordance with the Council's adopted Planning for a healthier area – hot food takeaways SPD (2020) or as per any subsequent updates. Support will be given for opportunities to tackle obesity through other means, or any further SPDs as evidence or initiatives evolve.

Q126. Is this policy justified and consistent with the Framework and PPG particularly with regard to the 400m exclusion zone around education establishments?

The relevant part of the policy, in reference to the 400m exclusion zone, states:

Policy HS7 – Creating a healthier food environment

Outside of the defined town, district and local centres, hot food takeaways will only be supported where:

- It is demonstrated that the proposal will not have a significant adverse impact on residential amenity through odour, noise and litter.
- Deliveries or customer visits by car would not have an unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety.
- The proposal is not within a 400m radius, of the boundary, of an existing primary or secondary school (including any special school, sixth form college or academy). This will not apply when the buffer zone overlaps with a town or local centre.

Answer

126.1 Core Document [CD1] is applicable to this response.

126.2 As per the Council's response for Question 125, Health policies were included in the previous adopted Local Plan (2011-2031) following work with Public Health and Warwickshire County Council leads. The Health Impact Assessment - Nuneaton and Bedworth Borough Plan - Public Health Warwickshire Assessment document V4 (30th May 2014)' Ben Cave Associates Ltd. (Appendix C - copy provided with the MIQ's) in part 7.6 (page 41 to 50 provides evidence with regard to a policy requirement for hot food outlets).

126.3 The HIA (2014) states that many Local Authorities have used a distance of 400m to define the distance of a fast-food exclusion zone. The distance is understood to equate to a walking time of approximately five minutes. In terms of the justification for this, numerous examples were given in the HIA document from lessons learnt and for policies by other Local Authorities such

as Stockport that used 300m, whereas Greenwich, Waltham Forest, Worcester City Council, Barking and Dagenham used 400m from schools. Kingston upon Thames just required the restriction of concentration of hot food takeaways close to schools.

126.4 The 2014 Report also refers to the National Institute for Clinical Excellence's (NICE) guidance on fast food from the 'prevention of cardiovascular disease', within which recommendation 11 is to:

"Encourage local planning authorities to restrict planning permission for take-aways and other food retail outlets in specific areas (for example, within walking distance of schools). Help them implement existing planning policy guidance in line with public health objectives".

126.5 The HIA (2014) also refers to The Kings Fund, who published a summary of evidence on this topic, which sets out that in one London borough, a survey of schoolchildren found that more than half purchased food or drinks from fast food or takeaway outlets twice or more a week, with about 10% consuming them daily. In terms of the cost to the country of obesity, the Kings Fund also highlight that:

"in 2002, the average local authority area incurred NHS costs of around £18 million to £20 million due to obesity, and a further £26 million to £30 million in lost productivity and earnings due to premature mortality".

126.6 In terms of government direction, the HIA Report notes that the government had published two documents in 2008 and 2010 respectively, setting out how local authorities could use their planning powers to control the number and location of fast-food outlets.

126.7 During the Examination of the adopted Borough Plan (2011-2031), the Council responded to one of the Inspector's questions about the wording on this policy (previous reference 'NBBC61: Council response to INS29 May 2018') (Refer to Appendix D – copy provided with the MIQs). This document points out that at a national level, it is estimated that obesity is responsible for more than 30,000 deaths each year. Additionally, on average, obesity deprives an individual of an extra 9 years of life. As well as the costs to health, obesity also places a greater burden on NHS resources, costing an estimated £6.1 billion

in 2014/15. The cost of obesity to the wider society was even greater at £27 billion²⁴.

126.8 The Council's previous response NBBC61 also pointed out that in general, meals eaten outside of the home tend to be associated with higher intakes of sugar, fat and salt, and portion size tends to be bigger. The consumption of these meals has been identified as an important factor contributing to rising levels of obesity. The consequences of this have been considered by Public Health England, who estimate that in the future, obesity could overtake smoking as the leading cause of preventable deaths²⁵.

126.9 It is considered that the points in this previous document are still relevant today and the Council is still working with Warwickshire County Council Public Health on a Joint Strategic Needs Assessment to improve health and wellbeing to cover issues such as obesity and healthy eating (as required in the PPG (Paragraph: 002 Reference ID:53-002-20190722)).

126.10 The wording in the proposed Review includes reference to the impact on public amenity to state that:

“Outside of the defined town, district and local centres, hot food takeaways will only be supported where:

- It is demonstrated that the proposal will not have a significant adverse impact on residential amenity through odour, noise and litter”

This is justified as paragraph 130f of the NPPF sets out that planning policies should:

“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.”

The reasoning for the wording in the Review Policy is because hot foot takeaways can affect amenity in several ways such as noise, parking, odour and litter.

²⁴ Public Health England (2017). *Health matters: obesity and the food environment*.

²⁵ Public Health England (2017). *Health matters: obesity and the food environment*.

126.11 Furthermore the PPG, under ‘Achieving healthy and inclusive communities’ (reference Paragraph: 001 Reference ID:53-001-20190722), states that planning policies need to have particular regard to obesity and healthy eating and under ‘How can planning create a healthier environment?’ (reference paragraph 4 ID 53-004-20190722) it also refers to policies having to consider “proximity to location where children and young people congregate such as schools” and consider evidence of high levels of obesity, health inequalities and general poor health refer the issues of odour, noise impact, refuse, litter are considerations. Policy HS7 is therefore relevance and in accordance with this.

126.12 The Policy refers to:

“Deliveries or customer visits by car would not have an unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety”

The PPG under: ‘How can planning create a healthier environment?’ (reference ID 53-004-20190722) also refers to ‘traffic impact’. This is considered necessary as the coming and goings from a hot food takeaway can be frequent especially as hot food takeaway deliveries have grown since COVID in March 2020²⁶, and this is more of an issue than was the case when the Borough Plan was adopted in June 2019.

126.13 The reference to traffic movement is also consistent with the NPPF which states at paragraph 104a that transport issues should be considered at the plan-making stage in order that the potential impacts of development on transport networks can be addressed.

126.14 The Policy relates to proposals not being “within a 400m radius, of the boundary, of an existing primary or secondary school”. However, as there are not access points around the entire boundary it is considered that it would be more effective to refer to “any access points”.

²⁶ Fong, M. (2023). *The Impact of COVID-19 Restrictions and Changes to Takeaway Regulations in England on Consumers’ Intake and Methods of Accessing Out-of-Home Foods: A Longitudinal, Mixed-Methods Study*.

- 126.15 Primary schools have now been added to the policy, from the previous adopted Local Plan (2011-2031), because this will support statistics from Warwickshire County Council where people exposed to the highest number of takeaways are 80% more likely to be obese and 20% more likely to have a higher Body Mass Index than those with the lowest number of encounters²⁷. In Warwickshire, 21.3% of pupils in reception are either overweight or obese, whilst 35.9% of pupils in year 6 are either overweight or obese.²⁸
- 126.16 Statistics also show an acute problem in Nuneaton and Bedworth, having the highest prevalence of obese and severely obese children for reception aged children in Warwickshire²⁹ and the prevalence of overweight children (including obese children) was higher in Nuneaton and Bedworth for Year 6 children than anywhere else in Warwickshire³⁰. Further to this, for Year 6 children again, the prevalence of obese children (including those severely obese) was the highest in Warwickshire and approximately 5% higher than the average for England. The document from which these statistics have been drawn, the Joint Strategic Needs Assessment for children aged 0-5, goes on to reference the Rapid Review to Update Evidence for the Health Child Programme 0-5, which highlights various effective ways to prevent and treat obesity, including decreasing the consumption of high fat/calorie drinks/foods³¹.
- 126.17 As Public Health England state, this problem is primarily because we are living in an obesogenic environment, which encourages excess weight gain and obesity, with hot food takeaways making up part of this obesogenic environment³². Indeed, Public Health England refer to the Foresight report, which states that our environment, particularly in the availability of calorie-rich

²⁷ Local Government Association (2015). *Tipping the scales: Case studies on the use of planning powers to restrict hot food takeaways*.

²⁸ Warwickshire County Council (2024). *Warwickshire insights: Health and Social Care, Prevalence of overweight (including obesity) (2022/23)*

²⁹ Warwickshire County Council (2022). *Needs Assessment: Children 0-5, Warwickshire Joint Strategic Needs Assessment 2022*.

³⁰ Warwickshire County Council (2022). *Needs Assessment: Children 0-5, Warwickshire Joint Strategic Needs Assessment 2022*.

³¹ Warwickshire County Council (2022). *Needs Assessment: Children 0-5, Warwickshire Joint Strategic Needs Assessment 2022*.

³² Public Health England (2017). *Health matters: obesity and the food environment*.

food, now makes it much harder for individuals to maintain healthy lifestyles³³. The contribution of the consumption of out-of-home meals has been identified as an important factor contributing to rising levels of obesity, of which hot food takeaways are one of the forms of out-of-home meals³⁴. These meals tend to be associated with higher energy intake; higher levels of fat; saturated fats; sugar and salt; and lower levels of micronutrients. The conclusion of this evidence by Public Health England, is that they suggest restricting the proximity of hot food takeaways to schools, with no reference to this only being in respect of secondary schools³⁵. In terms of the frequency of visits to out-of-home food outlets, one fifth of children eat food here at least once a week³⁶.

126.18 Looking at the number of primary school children who can walk to school, 84% of primary school pupils are within 15 minutes travel time by public transport or walking of their school³⁷. Hence the policy preventing hot food takeaways near to schools. Indeed, Public Health England point out that primary age pupils are choosing to purchase food from nearby outlets, and that the food environment around schools has an important role to play in encouraging children and young people to eat a healthy diet³⁸.

126.19 It is considered that there is sufficient opportunity for hot food takeaway development in the Borough and this policy will in no way be overly restrictive in permitting this form of business. Indeed, the borough had a density of fast-food outlets of between 81.8 – 93.8 per 100,000 population in 2017, which is higher than many other local authority areas in England, where nearly one third of the country have a density of fast-food outlets of between 25.7 – 67.1 per 100,000 population³⁹.

³³ Public Health England (2017). *Health matters: obesity and the food environment*.

³⁴ Public Health England (2017). *Health matters: obesity and the food environment*.

³⁵ Public Health England (2017). *Health matters: obesity and the food environment*.

³⁶ Public Health England (2017). *Health matters: obesity and the food environment*.

³⁷ Warwickshire County Council (2024). *Warwickshire Insights: Children and Young People, Journey time to the nearest school*.

³⁸ Public Health England (2017). *Health matters: obesity and the food environment*.

³⁹ Public Health England (2017). *Obesity and the environment: Density of fast food outlets at 31/12/2017*.

126.20 In terms of further evidence that necessitates the limiting of hot food developments within 400m of primary schools, there are 8 neighbourhood centres within 400m of primary schools. Neighbourhood centres constitute those centres with 5 or fewer units which serve a similar purpose to local centres (these centres are not referenced in the Borough Plan Review; however, they were assessed as part of the evidence base for the adopted Borough Plan (2011-2031)). The fact that over one quarter of primary schools are within walking distance of neighbourhood centres, these locations are likely to see applications come forward for hot food takeaway developments.

126.21 In relation to consistency with the Framework, paragraph 92c sets out that planning policies should aim to achieve healthy places which:

“c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.”

Likewise, paragraph 93b of the Framework states that:

“93. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;”

Paragraphs 20c, 34 and 210f of the NPPF all refer to policies setting out provision for health.

126.22 As has already been evidenced, there are serious problems with childhood obesity in the Borough, and health and well-being needs have been identified in Warwickshire County Council’s Health and Wellbeing Strategy (2021-2026). It is considered therefore there is sufficient justification for this policy.

126.23 With regard to consistency with the PPG, within ‘Healthy and safe communities’ under ‘Achieving healthy and inclusive communities’ (paragraph 001 reference ID 53-001-2019722), it states that planning needs to consider creating environments that support and encourage healthy lifestyles, which this amendment seeks to achieve. The PPG also sets out in the same section

under 'What is a healthy place?' (at paragraph 003 reference ID 53-003-2019101) that a:

“healthy place is one which supports and promotes healthy behaviours and environments”.

It is considered that this Policy is consistent with this.

126.24 As discussed previously, the below recommends further additional modifications to the Policy wording. Also, as the new class uses have been used for some time, it is considered for clarity that reference to the previous class use should be removed as follows:

Policy HS7 – Creating a healthier food environment

DELETE reference to former use class as new use class is now firmly established and AMEND the 400m radius from boundary to access points as follows:

To limit development of environments that encourage obesity, hot food takeaways (~~new use class sui generis, formerly use class A5~~), should be directed to town centres as set out in 'Policy TC3 – Hierarchy of centres (including district and local centres'.

Outside of Nuneaton and Bedworth town centres, hot food takeaway proposals will be permitted in district or local centres providing the proposal does not increase the number of units of hot food takeaways to over 20% of the centre's total usage.

Outside of the defined town, district and local centres, hot food takeaways will only be supported where:

- It is demonstrated that the proposal will not have a significant adverse impact on residential amenity through odour, noise and litter.
- Deliveries or customer visits by car would not have an unacceptable impact on existing or proposed public transport provision, traffic movements, road or pedestrian safety.

- The proposal is not within a 400m radius, of ~~the boundary,~~ **any access points** of an existing primary or secondary school (including any special school, sixth form college or academy). This will not apply when the buffer zone overlaps with a town or local centre.
- The proposal does not jeopardise the provision of an essential local service.
- A Sequential Assessment is provided, which demonstrates that there are no other sequentially preferable sites.

Proposals should be in accordance with the Council's adopted Planning for a healthier area – hot food takeaways SPD (2020) ~~or as per any subsequent updates. Support will be given for opportunities to tackle obesity through other means, or any further SPDs as evidence or initiatives evolve.~~

Q127. What is meant by the last sentence of the policy?

The relevant part of the Policy states:

Policy HS7 – Creating a healthier food environment

Support will be given for opportunities to tackle obesity through other means, or any further SPDs as evidence or initiatives evolve.

Answer

127.1 Core Document [CD1] is applicable to this response.

127.2 The last sentence of the policy is an amendment from the adopted policy.

However, in hindsight, this sentence is not justified, as the wording is unclear and ambiguous, and does not make it evident how a decision maker should react to development proposals. In addition to not serving a clear purpose, it is contrary to NPPF (Sept 2023) paragraphs 16d and 16f. Therefore, the modification, contained in response to Question 126 above, recommends its removal.

Policy NE1 – Green and blue infrastructure

Policy NE1 – Green and blue infrastructure

The Borough's green and blue infrastructure assets will be protected, managed, enhanced or created to provide nature recovery networks. New development proposals will enhance, sustain and restore existing and create green (including wildbelts) and blue infrastructure (including canals); whilst at the same time protecting and enhancing public rights of way.

Climate change will be fundamental to new development and green and blue infrastructure must play a part in delivering long-term mitigation and adaptation to this, including installation of retro-fit SuDS such as rain gardens, bio-retention and tree pits.

Development should comply with the Council's adopted Open Space and Green Infrastructure SPD (2021) and any emerging studies.

The historic environment should be valued as an important asset in contributing to the multi-functionality of green-blue infrastructure via cultural heritage, recreation and tourism, utilising assets such as historic parks, gardens and canals.

Where development proposals have a watercourse classified as a main river within their boundary, as a minimum, developers should set back development 8m from the top of the bank or landward toe of any flood defence. The same easement will also be required on smaller watercourses to maintain water elements, ecology and wildlife corridors. Greater widths are appropriate where forming green infrastructure, open space or ecological corridors such as 50m buffers for ancient woodland, 30m buffers around all semi-natural woodland and broad-leaved plantation woodland and 5m buffers either side of intact hedgerows.

Q128. Green infrastructure is defined in the glossary to the Plan, but blue infrastructure is not. Should it be?

Answer

128.1 Core Document [CD1] is applicable to this response.

128.2 For clarity we recommend an additional modification to add the wording to the Review's glossary and which is based on the description in the PPG under 'Green infrastructure' and 'what can green infrastructure include?' (reference Paragraph: 004 Reference ID: 8-004-20190721) as follows:

Glossary

ADD to glossary new definition to read:

Blue infrastructure: features such as streams, ponds, canals and other water bodies.

Q129. Does the wording of the policy provide sufficient flexibility?

Answer

129.1 Core Documents [CD1], [CD6.5] and [CD14] are applicable to this response.

129.2 In terms of the first paragraph of the policy, it refers to enhancing, sustaining and restoring existing and creating green and blue infrastructure. The PPG (Paragraph: 055 Reference ID: 7-055-20220825) states that blue and green infrastructure should be created and connected and refers to the capture and re-use of rainwater and enhancing new development by integrating water management with habitat for wildlife and for opportunities for amenity and recreation similarly to the second paragraph of the proposed policy.

129.3 Similarly, paragraph 56 of the PPG, in the same section, seeks to encourage the incorporation of rainwater harvesting in sustainable drainage systems. Severn Trent Water supported the protection of green and blue infrastructure in their response to the Publication version of the Borough Plan Review [CD14] (response reference 6.15), stating that this is important in addressing climate change and indeed in their response (response reference 6.22) wanted this policy taking further to include flood alleviation. However, the Council considered that this was included with Policy NE4 so was unnecessary to be duplicated in Policy NE1. Likewise, Natural England also supported the wording in their Regulation 19 response [CD14] (response reference 20.8). Equally, Asteer Planning in (response reference 125.9) also supported this approach and (former) Councillor Kondakor wanted the approach for holding back water taken even further than the Policy provides (response reference 301.15).

129.4 It is acknowledged that not all development may be appropriate for retrofit, and therefore it is recommended that there are minor modifications to the wording as suggested below.

129.5 In reference to protecting and enhancing public rights of way, these may often be within green infrastructure or on the edge of blue infrastructure. It is recognised that sometimes rights of way must be diverted, due to development, or indeed potentially diverted to reduce human impact to wildlife corridors. Therefore, it is suggested that wording is amended on this and is provided below. Notwithstanding this, the NPPF paragraph 100 requires that planning policies should protect and enhance public rights of way, so this requirement is consistent with national policy.

129.6 The NPPF paragraph 153 refers to plans taking a proactive approach to climate change by:

“mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures {footnote 53}. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.”

This was the intention within paragraph 2 of Borough Plan Review Policy NE1. However, further recommendations have now been proposed below so that this can be provided more flexibly.

129.7 In reference to the third paragraph of the proposed policy, it has already been acknowledged, within the MIQ's by the Council, that it recognises that SPDs are not DPDs, and that developers could not consider any future studies where these are unknown. This is mirrored in the Home Builders Federation response to the Regulation 19 stage [CD14] (response reference 15.9) and therefore further amendments are also recommended to this wording and provided below.

129.8 The reference to the historic environment was through discussions with Historic England and which they stated was welcome within their Regulation 19 response [CD14] (response reference 15.9) and within their Statement of

Common Ground [CD6.5]. However, it is recognised that this is for information and the protection and enhancement is covered under Policy BE4 so the wording could be moved to the supporting text as per the recommended modifications below.

129.9 In conclusion it is suggested that the policy is amended as follows:

Policy NE1 – Green and blue infrastructure

AMEND to read:

The Borough's green and blue infrastructure assets will be protected, managed, enhanced or created to provide nature recovery networks. New development proposals will enhance, sustain or and restore existing and create green (including wildbelts) and blue infrastructure (including canals) **where feasible;** whilst at the same time protecting and enhancing public rights of way **within the site or by evidencing reasoning for diversions where necessary.**

Long term mitigation and adaption is required to deal with increased flooding due to cClimate change, **including water supply issues, biodiversity and overheating and which** will be fundamental to new development. and **G**green and blue infrastructure-must play a part in-delivering long-term mitigation and adaptation to this, **by** including installation of retro-fit SuDS such as rain gardens, bio-retention and tree pits, **where this can be achieved.**

Development should **take into account of** ~~comply with~~ the Council's adopted Open Space and Green Infrastructure SPD (2021). ~~and any emerging studies.~~

~~The historic environment should be valued as an important asset in contributing to the multi-functionality of green-blue infrastructure via cultural heritage, recreation and tourism, utilising assets such as historic parks, gardens and canals.~~

Where development proposals have a watercourse classified as a main river within their boundary, as a minimum, developers should set back development 8m from the top of the bank or landward toe of any flood defence. The same easement will also be required on smaller watercourses to maintain water elements, ecology and wildlife corridors. Greater widths are appropriate where forming green infrastructure, open space or ecological corridors such as 50m buffers for ancient woodland, 30m buffers around all semi-natural woodland and broad-leaved plantation woodland and 5m buffers either side of intact hedgerows.

Policy NE1 – Green and blue infrastructure

ADD as supporting text to read:

The historic environment should be valued as an important asset in contributing to the multi-functionality of green-blue infrastructure via cultural heritage, recreation and tourism, utilising assets such as historic parks, gardens and canals.

Q130. The first part of the policy states that new development proposals will enhance, sustain and restore existing green and blue infrastructure. Is it possible to achieve all three of these outcomes?

The relevant part currently states:

Policy NE1 – Green and blue infrastructure

The Borough's green and blue infrastructure assets will be protected, managed, enhanced or created to provide nature recovery networks. New development proposals will enhance, sustain and restore existing and create green (including wildbelts) and blue infrastructure (including canals);

Answer

130.1 Core Document [CD1] is applicable to this response.

130.2 It is noted that any scheme could not do all three, therefore see the suggested wording in the Council's response to Question 129, which replaces the word 'and' to 'or' and includes the wording 'where feasible'.

Q131. Are the second and fourth parts of the policy actual policy requirements or are they statements that should be included in the supporting text?

The relevant parts state:

Policy NE1 – Green and blue infrastructure

Climate change will be fundamental to new development and green and blue infrastructure must play a part in delivering long-term mitigation and adaptation to this, including installation of retro-fit SuDS such as rain gardens, bio-retention and tree pits.

The historic environment should be valued as an important asset in contributing to the multi-functionality of green-blue infrastructure via cultural heritage, recreation and tourism, utilising assets such as historic parks, gardens and canals.

Answer

131.1 Core Document [CD1] is applicable to this response.

131.2 The second part is an actual policy requirement. The justification in terms of reference to National Policy and Guidance and suggested amendments have been provided in the Council's response to Question 129 and this also now includes the wording "where this can be achieved".

131.3 With regard to the fourth part of the policy, as stated in the Council's response to Question 129, this is a statement rather than policy wording, so it has been suggested in the response to Question 129 that this is removed and instead included in supporting text.

Q132. Part 5 of the policy refers to various set-backs. What justification is there for these?

The relevant part currently states:

Policy NE1 – Green and blue infrastructure

Where development proposals have a watercourse classified as a main river within their boundary, as a minimum, developers should set back development 8m from the top of the bank or landward toe of any flood defence. The same easement will also be required on smaller watercourses to maintain water elements, ecology and wildlife corridors. Greater widths are appropriate where forming green infrastructure, open space or ecological corridors such as 50m buffers for ancient woodland, 30m buffers around all semi-natural woodland and broad-leaved plantation woodland and 5m buffers either side of intact hedgerows.

Answer

132.1 Core Document [CD1] and [CD14] and Evidence Base Document [EB15] are relevant to this response.

132.2 The Home Builders Federation, in their Regulation 19 response [CD14] (response reference 16.16), considered that whilst reference to the buffers was clear there was no policy to support this. Arbury Estate in their Regulation 19 response [CD14] (response reference 106.11) wanted reference to updated wording in Planning Guidance about Ancient Woodland but the Council considered that Local Plans should not repeat national legislation. Likewise, Richborough (response reference 110.6) considered the buffers were too stringent.

132.3 The buffer distances were provided by Warwickshire County Council in the evidence base work 'Ecology and Geodiversity (July 2022) [EB15]. The evidence base Ecology Report (page 13) states:

“development should look to avoid within the design of the scheme or features that need to be considered during the layout. They include:

- 30m buffer around woodland

- 8m buffer either side of adjacent to watercourses
- 8m buffers around ponds
- 5m buffer either side of intact hedgerows
- Areas of medium to high distinctiveness grassland (values 4, 5 & 6)

The areas are marked in green and blue on the constraints map indicate where development should be avoided, and ecological enhancement encouraged”.

132.4 The easement of 8m for water courses is within national legislation including the PPG (Paragraph: 054 Reference ID: 7-054-20220825) and the Environment Agency responded to the Publication that this was welcomed but that they would normally only require this for main rivers [CD14] (response reference 13.11). However, the WCC Flood Risk Management Strategy⁴⁰ requires that watercourses are managed and access is permanently required. The Environment Agency also refer to 8m riparian buffers to reduce pollutant loads⁴¹.

132.5 In relation to the 50m buffer required for ancient woodland. The NPPF refers to ancient woodland as being irreplaceable habitat and paragraph 180c of the Framework states that development causing deterioration to ancient woodland or veteran trees should be refused unless there are “wholly exceptional reasons”. The PPG under ‘Natural environment’, under ‘How can local planning authorities assess the potential impact of development proposals on ancient woodland and ancient or veteran trees? (available at: Paragraph: 001 Reference ID: 8-001-20190721) states:

“Local planning authorities need to consider both the direct and indirect impacts on ancient woodland and ancient or veteran trees when assessing development proposals and the scope for avoiding or mitigating adverse impacts. Their existing condition is not something that ought to affect the local planning authority’s consideration of such proposals (and it should be borne in mind that

⁴⁰ [Local Flood Risk Management Strategy and Surface Water Management Plan – Warwickshire County Council](#)

⁴¹ [Heading 1 \(publishing.service.gov.uk\)](#)

woodland condition can usually be improved with good management).”

132.6 Whilst it is recognised that Natural England state 15m for root protection ‘Buffer zone recommendations’⁴² provides greater protection due to pollution or trampling which is 50m. Inside Ecology⁴³ states:

“leaving an appropriate buffer zone of semi-natural habitat between the development and the ancient woodland (depending on the scale and impact of development, a minimum buffer should be at least 15 metres to avoid root damage and at least 50m for pollution or trampling)”.

132.7 The Woodland Trust also consider this 50m buffer is appropriate⁴⁴:

“As a precautionary principle, a minimum 50 metre buffer should be maintained between a development and the ancient woodland, including through the construction phase, unless the applicant can demonstrate very clearly how a smaller buffer would suffice. A larger buffer may be required for particularly significant engineering operations, or for after-uses that generate significant disturbance”.

132.8 In addition to the above, mature trees such as Oak trees can grow to 20-40m in height. Therefore the toppling distance plus 10m for shatter effect would be a reasonable fall zone. Also, the distance would mean that no work had to be carried out to the trees due to house insurers insisting that trees are within the influence zones for insurance claims⁴⁵.

132.9 Additionally the buffer distances are within the Council's Open Space and Green Infrastructure SPD.

⁴² [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

⁴³ [New Standing Advice: Ancient Woodland and Veteran Trees - Inside Ecology](http://www.woodlandtrust.org.uk)

⁴⁴ [planners-manual-for-ancient-woodland.pdf \(woodlandtrust.org.uk\)](http://www.woodlandtrust.org.uk)

⁴⁵ [Tree influencing distance information for property insurance - Clarke Williams Ltd Insurance Brokers \(clarkewilliamsinsurancebrokers.co.uk\)](http://www.clarkewilliamsinsurancebrokers.co.uk)
[Loss Prevention Council Information Sheet \(abi.org.uk\)](http://www.abi.org.uk)

Q133. Is there a need for the policy to address flood resilience schemes within green infrastructure?

Answer

133.1 Core Document [CD1] is applicable to this response.

133.2 There is no direct reference to flood resilience schemes within the policy for green infrastructure. Although as it refers to climate change it implies that green and blue infrastructure should be made use of to improve Suds. It is considered that as Policy NE4 Managing flood risk, includes the requirement for developments contributing to “creating space for water through use of blue and green infrastructure”, it is considered that this is sufficient.

Policy NE2 – Open space and playing fields

Policy NE2 – Open space and playing fields

New development must demonstrate how it will improve the green network of publicly accessible and linked open spaces to support growth by:

1. Protecting and enhancing the hierarchy of open spaces which are made up of destination parks, community parks and local parks. This includes:
 - a. Improving open spaces at Change Brook Close, Buttermere Recreation Ground, St Giles, Blackberry Lane and Anderton Road in order to create community parks.
 - b. Providing new community parks at Whitestone, The Long Shoot and Bulkington.
2. Creating new open spaces and links for the strategic housing sites.
3. Improving access to nature where there is a deficit of space.
4. Addressing open space through new provision or improving existing provision in line with standards set out in the Open Space Strategy.
5. Providing new allotments or improving existing allotments in order to enable communities to grow food where deficiencies exist, in line with standards set out in the Allotment Strategy.
6. Providing new or improving existing children's play facilities and facilities for young people in line with the standards in the Open Space Strategy and any emerging studies.
7. Providing new playing fields in line with the Playing Pitch and Outdoor Sports Strategy.
8. Creating a network of strategic and local walking and cycling routes in order to increase the connectivity of open spaces. Borough Plan Review - Publication Draft Plan
9. Providing areas of tree planting of a mix of predominantly native trees, street trees of appropriate species and where appropriate community orchards.

Climate change will be fundamental to new development, including open spaces which must play a part in delivering long-term mitigation and adaptation. New open space can be used multi-functionally as flood storage except for formal children's play areas or sports pitches.

Q134. Is this policy consistent with the Framework and other policies within the Plan relating to open space and playing fields (HS4 & HS6)?

Answer

134.1 Core Documents [CD1], [CD6.7], [CD14] and [CD22] are relevant to this response.

134.2 The Policy refers to the requirement for development to demonstrate how it will improve and link the green network, public spaces and open spaces. This policy serves to address the 'Issues' identified in the Borough Plan Review such as the 'Issues associated with the local community' acknowledged in the Borough Plan Review on page 7 which identifies the lack of green corridors and which states has 'implications to biodiversity and leisure activities.' Similarly, page 8 of the 'Issues associated with the local community' requires improvements to walking and cycling networks. Likewise, the Vision for the Borough (page 11) aspires to the improvement of health and opportunities in the Borough, to be active and by improving the natural environment through more accessible and higher quality open spaces and leisure facilities and increased tree planting whilst addressing the climate change emergency thorough the planning process. Finally, it is also within the Strategic Objectives of sustainable and healthy communities and improving the natural environment whilst addressing climate change.

134.3 The first sentence and first eight numbered points are either the same, or substantially the same as those found sound in the adopted Borough Plan (2011-2031). The only difference within these numbered points is updated references to evidence base documents. However, responses from the Regulation 19 [CD14] stage from the Home Builders Federation (response reference 16.17) and Seven Homes (response reference 122.11) considers that the policy is not clear enough to show how the criteria could be delivered and therefore a number of changes are suggested to make the policy clearer (see the recommended modification at the end of this response).

- 134.4 The existing first, second, third and eighth bullet points require the improvement and creation of existing open spaces. The schemes for enhancing the current parks are ongoing and contributions are required via Section 106 contributions and in addition, some of the strategic sites are required to have open spaces and some of which will naturally extend into existing parks. Similarly, development will need to contribute to existing facilities and/or provide parks provision. Existing bullet points 4 to 7 state the Council's up-to-date documents look at existing and future requirements for the Borough.
- 134.5 It is considered that the requirement for open spaces and play is consistent with the social and environmental objectives in the NPPF paragraph 8 sections b and c. This is also stated in chapter 8 of the NPPF referring to 'Promoting healthy and safe communities' and within paragraphs 92, 93, 98, 99 and 123 of the NPPF. Likewise, the PPG recognises under: 'Achieving healthy and inclusive communities' that green infrastructure can be a major determinant of health and wellbeing (Paragraph: 001 Reference ID:53-001-20190722). The PPG also identifies how all forms of open space, including open areas and formal pitches can provide public value, and is an important component for sustainable development (Paragraph: 001 Reference ID: 37-001-20140306). This same paragraph then states that it is up to local planning authorities to assess the need and opportunities for open space in their areas. The criteria and the Council's supporting documents have been completed with the express involvement and guidance of Sport England as described within the PPG (Paragraph: 002 Reference ID: 37-002-20140306).
- 134.6 In relation to the existing ninth bullet point, paragraphs 134 and 174 of the NPPF states that planning policies should recognise the wider benefits from natural capital and ecosystem services of trees and woodlands and tree planting including street trees (as required within paragraph 131 of the NPPF). Although it is noted that not all development will be appropriate for street trees or community orchards.
- 134.7 The second paragraph refers to climate change and that open space should play a part in delivering long term mitigation and adaptation. It is recognised

that this is rather a statement than Policy and does not provide information on what is required and therefore could be considered inconsistent with paragraphs 16d and 16f of the NPPF. It is therefore proposed to amend this paragraph to make it clearer what this is referring to (see below). The climate change elements are those stated in the NPPF paragraph 153 which are:

“taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.”

134.8 Moving onto the last paragraph of the Policy, this is largely the same as the text found sound within the adopted Borough Plan (2011-2031). However, the reference to children’s play areas and flooding is now proposed to be deleted and just inserted within the new criteria 7. The Council recognises that some open space can function equally as flood mitigation areas, however, for safety reasons it is considered that this should not include formal play areas. Severn Trent Water, in their response to the Regulation 19 consultation [CD14] (response reference 6.16), were supportive of multifunctional open spaces as flood storage.

134.9 It is proposed that Policy HS4 is now the lead policy regarding community facilities such as public houses, allotments and cultural facilities, whilst Policy HS6 focuses on sport and exercise including the loss of open space and play pitches, and Policy NE2 focuses on the requirements for play, parks and creation of new open spaces and playing fields.

134.10 Paragraph two of Policy HS6 states that existing local sports pitches and playing fields should be retained, whilst Policy NE2 states that new development must demonstrate how it will improve the green network of publicly accessible and linked open spaces to support growth by protecting and enhancing the hierarchy of open spaces. Local sports pitches and playing

fields form part of open space, therefore these policies are linked in this sense.

134.11 The Policies are also explicitly linked, as is expressed in paragraph three of Policy HS6 which states that new development will be required to plan from the outset for the integrated planning of a healthy environment for its communities, including the provision and maintenance of open space. This is in line with Policy NE2.

134.12 Further to this, paragraph four of Policy HS6 states that housing sites will need to provide land for open space and playing fields either on-site, or if justified, off-site. Similarly, Policy NE2 states that new development must demonstrate how it will improve the green network of publicly accessible and linked open spaces to support growth by creating new open spaces. Again, sports and exercise facilities form part of open space and playing fields.

134.13 In order to ensure that the policy requirements are clear, the following modifications are suggested to this policy.

Policy NE2 – Open space and playing fields

AMEND, ADD and DELETE policy as follows:

New development must demonstrate how it will improve the green network of publicly accessible and linked open spaces to support growth by:

- ~~1. Protecting and enhancing the hierarchy of open spaces which are made up of destination parks, community parks and local parks. This includes:
 - ~~a. Improving open spaces at Change Brook Close, Buttermere Recreation Ground, St Giles, Blackberry Lane and Anderton Road in order to create community parks.~~
 - ~~b. Providing new community parks at Whitestone, The Long Shoot and Bulkington.~~~~

1. Proportionately contributing to the provision of Destination, Community and Local Parks (including play facilities) through on-site provision and/or offsite 106 contributions - as dictated by the numbers of additional households and whether the new housing will fall within the relevant 600m catchment distance of existing fully equipped Community Park provision. A number of the Strategic residential allocations will need to provide new on-site facilities. (Guidance is provided in the Council's Open Space Strategy and Open Space SPD, relevant individual Policies and Concept Plans)

~~2. Creating new open spaces and links for the strategic housing sites.~~

- 2. Providing local and strategic active travel links within developments - including connecting to existing adjacent provision and allowing where appropriate for future connections and network development such as where multiple developers sit within a single larger housing allocation (Further guidance is provided within the Council's adopted Open Space SPD and within Warwickshire County Council's LCWIP in terms of strategic provision for active travel)**

- ~~5. Improving access to nature where there is a deficit of space.~~
- ~~6. Addressing open space through new provision or improving existing provision in line with standards set out in the Open Space Strategy.~~
- ~~5. Providing new allotments or improving existing allotments in order to enable communities to grow food where deficiencies exist, in line with standards set out in the Allotment Strategy.~~

3. Proportionately providing and / or contributing to resident's access to allotments dependent on the scale of the development and on the location of the development relative to a 1,000m catchment of nearby allotment provision that has the capacity to increase plot availability. A number of the Strategic residential allocations will need to provide new on-site facilities. (Guidance is provided in the Council's Allotment Strategy and Open Space SPD, relevant individual Policies and Concept Plans)

- ~~6. Providing new or improving existing children's play facilities and facilities for young people in line with the standards in the Open Space Strategy and any emerging studies.~~
- ~~7. Providing new playing fields in line with the Playing Pitch and Outdoor Sports Strategy.~~

4. Making proportionate contributions toward playing pitch provision and facilities in the area in accordance with the evidence base and findings within the Council's adopted Playing Pitch Strategy. A number of the Strategic residential allocations will need to provide new on-site facilities. (Guidance is provided in the Council's Playing Pitch and Outdoor Sports Strategy and within the relevant individual Policies and Concept Plans.)

~~8. Creating a network of strategic and local walking and cycling routes in order to increase the connectivity of open spaces. Borough Plan Review – Publication Draft Plan~~

5. Enhancing ecological network provision and connectivity within the development site and linking to wildlife habitats and corridors adjacent to the development site where those are present. (Guidance is provided in the Council's Open Space Strategy and Open Space SPD).

~~Providing areas of tree planting of a mix of predominantly native trees, street trees of appropriate species and where appropriate community orchards.~~

6 Providing both structural amenity tree planting to enhance the landscape quality of the new built environment and also planting of native trees where appropriate as part of habitat creation and enhancement (Guidance is provided in the Council's Open Space Strategy and Open Space SPD).

Demonstrably considering climate change impacts as part of design decisions in terms of tree and soft landscape species choices, provision of shade within public realm areas and also in terms of the adequacy of flood mitigation provision and the utilisation of SUDS features to add to the overall extent of greenspace provision. (Guidance is provided in the Council's Open Space Strategy and Open Space SPD and in Warwickshire County councils Flood risk Management strategy and Environment Agency guidance.

~~Climate change will be fundamental to new development, including open spaces which must play a part in delivering long term mitigation and adaptation.~~

~~New open space can be used multi-functionally as flood storage except for formal children's play areas or sports pitches.~~

Q135. Does the wording of the policy provide sufficient flexibility?

Answer

135.1 Core Document [CD1] is applicable to this response.

135.2 After reviewing the comments from the Regulation 19 consultation and considering the wording, the Council consider that the policy, in hindsight, is not sufficiently flexible, and this has now been addressed in the Council's response to Question 134 and the subsequent amendments suggested in that Question.

Q136. Is the sentence after part 9 of the policy relating to climate change a policy requirement or a statement? Is it possible to demonstrate compliance with it?

The relevant part of the policy is as follows:

Policy NE2 – Open space and playing fields

Climate change will be fundamental to new development, including open spaces which must play a part in delivering long-term mitigation and adaptation.

Answer

136.1 Core Document [CD1] is applicable to this response.

136.2 At the very early stages of writing the Borough Plan Review, the Council took the opinion that climate change should be a golden thread running throughout the Review rather than having standalone policies. However, it is noted that the above is a statement rather than providing any real policy. The wording has therefore been recommended for amendment in the Council's response to Question 134.

Policy NE3 – Biodiversity and geodiversity

General information to be aware of that effects Policy NE3 and why there have been significant updates to this policy:

A number of responses were received to the Regulation 19 consultation [CD14] regarding Policy NE3, largely requesting that the policy needed to be updated to match current legislation and that in its current state it was not compliant with national policy. This included representations made by: Warwickshire Wildlife Trust (representation reference 12.9); the Environment Agency (representation reference 13.12); Home Builders Federation (representation reference 16.18); FCC Environment UK Ltd (owner of SHA3) (representation reference 108.9); Gladman Developments Ltd. (representation reference 11.11) and Seven Homes (representation reference 22.10).

Notwithstanding these comments, following recent legislation changes including the introduction of 10% biodiversity net gains and Local Nature Recovery the whole of the policy has been reviewed and in parts re-written.

The combined amended policy from suggested main modifications: [CD21] and suggested additional modifications [CD22] are (orange highlighting) and original Publication (Regulation 19) wording (green highlighting) is as follows:

Policy NE3 – Biodiversity and geodiversity

The Natural Environment and Rural Communities Act 2006, protected species, the Government's 25 Year Plan and Environment Act 2021 (footnote105) are all key national legislation that must be adhered to. Development proposals need to ensure ecological networks, services and biodiversity and geological features are conserved, enhanced, restored and created to assist in nature recovery. The use of mechanisms to improve biodiversity such as green roofs or green walls are encouraged.

Ecological network

Sites on international, national and local levels (including existing and potential Local Wildlife Sites) will be protected from development. The level of protection sought for the site will be at an appropriate scale to the site's designation status, and the contribution it makes to the ecological network.

Fragmentation of habitats

Development proposals will ensure species are able to positively respond and adapt to the impacts of climate change by preventing the fragmentation of existing habitats. Links and habitats should be created where there are gaps to the ecological network of wildlife sites, wildbelts, stepping stones, wildlife and canal corridors, and green spaces, regardless of whether they are of international, national or local importance. Watercourses should be joined up to provide natural linkages for ecological networks and to improve water quality.

Biodiversity Net Gain offsetting

All applicable development must demonstrate a minimum 10% Biodiversity Net Gain with offsite net gain offsetting will be ing required as a last resort once all available options in the mitigation hierarchy have been explored. Developers must use ~~Warwickshire County Council biodiversity offsetting metrics (until such time this is superseded by the mandatory use of the national metrics)~~ **the Statutory Metric** to quantify the impact, and to calculate an appropriate level of compensation to replace the lost habitat. If the habitat loss cannot be replaced on site, the replacement habitat should be provided, in the Borough, in the following order:

- A biodiversity strategic location.
- A location adjoining and/or linking a biodiversity strategic location.
- A location which significantly increases connectivity between LBAP habitats – and/or any emerging Nature Recovery network location that aligns with targeted areas and corridors for increased ecological connectivity.

If this is not possible then the Warwickshire, Coventry and Solihull Green Infrastructure hierarchy is to be applied.

Geological diversity

Development proposals will avoid adversely impacting sites of geological interest and, where appropriate, conserve and enhance such features for the enjoyment of residents, and for reasons of advancing local geological education.

Ecological and geological assessment

All major developments, and minor developments

Development proposals ~~A~~**affecting the ecological network** and / or important geological features, will be accompanied by ~~an~~ **Preliminary Ecological Assessment** and/or, where relevant, a Geological Assessment.

Where the assessment indicates an adverse impact, the assessment must set out a mitigation strategy to halt and reverse the loss of biodiversity, indicate how it will create biodiversity net gains and where relevant, how it will reduce its geological impact.

The Mitigation Hierarchy will be adhered to by development. Any proposal that directly or indirectly impacts on a highly distinctive ecological site **or habitat** must show that less distinctive ecological sites **or habitat** have been considered first and explain why those ~~sites~~ **alternative locations** were not suitable. The assessment must demonstrate that the benefits of the development proposal will outweigh the immediate loss of biodiversity and/or geodiversity before development is permitted. The assessment must also demonstrate that the combination of proposed habitat retention, enhancement and any biodiversity offsetting, results in a minimum of a 10% net gain in biodiversity and where appropriate enhance 'at risk habitats' identified in the Biodiversity Action Plan, Green Infrastructure Strategy and any emerging **Warwickshire Local** Nature Recovery Plan. The assessment should include retention, enhancement and

creation of ecological habitats and nature recovery. Developments that create new habitat should seek to accommodate a mix of predominantly native trees, including fruit trees as well as suitable species of street trees.

Where there is evidence of deliberate neglect, clearance or damage to biodiversity prior to the submission of an application, the Council will assess the acceptability and biodiversity calculations on what was considered to be the original condition.

Special Areas of Conservation and Sites of Special Scientific Interest

Development that would adversely affect Special Areas of Conservation or cause significant harm to SSSI will not normally be granted planning permission.

Q137. Is the policy sufficiently flexible?

Answer

137.1 Core Document [CD1] is applicable to this response.

137.2 The Policy has been written with the guidance from Warwickshire County Council Ecology Team, the Council's Open Space and Ecology Officers and guidance from statutory bodies such as Natural England and the Environment Agency.

137.3 In terms of the ecological network, this states that sites of importance should be protected from development. Local Wildlife Sites (LWS) is the highest designation for the Borough of locally designated sites of importance and as defined in the Annex 2 glossary of the NPPF. Please refer to the Council's response to Question 48 on why these sites need to be protected. Notwithstanding this, criteria has been added into the policy to say that the protection will be appropriate to the contribution within the ecological network. This is being mindful that some of the allocations include land or are in proximity to LWS and potential LWS and therefore affords some flexibility where necessary. To make Policy NE3 consistent with Policy SA1 in relation to LWS and pLWS, the additional modifications below are recommended.

137.4 Under the heading of fragmentation of habitats, the policy asks for linking of habitats which is in line with Nature Recovery Strategies and provides examples of how this can be implemented. It is considered that this provides enough examples that will allow for flexibility. The biodiversity net gain element of the policy simply refers to the mitigation hierarchy and the Act requiring a minimum of 10% net gain. To fulfil net gain any offsetting should be done as close to the site as possible. In this instance, it is requested within the Borough. Please refer to the Council's response to Question 143 and the flexibility in this.

137.5 Under geological diversity the policy requires development to avoid adversely impacting sites of geological interest but provides the caveat: 'and where appropriate' providing flexibility.

137.6 In terms of the requirements for surveys this is largely governed by legislation so cannot be flexible. Similarly, the 'Mitigation Hierarchy' and Local Nature Recovery is part of the legislative requirements. Surveys are required in certain instances. Please refer to Question 67 and the Council's response. It is therefore proposed to add protected species, UK Priority, rare and endangered species surveys will be required to the policy as well as a footnote to this and additional supporting text to align with this:

NE3 – Biodiversity and Geodiversity

AMEND Title and ADD and AMEND policy contents to read:

NE3 – Ecology, Biodiversity, Geodiversity and Local Nature

Recovery

~~The Natural Environment and Rural Communities Act 2006, protected species, the Government's 25 Year Plan and Environment Act 2021 (footnote105) are all key national legislation that must be adhered to.~~ Development proposals need to ensure ecological networks, services and biodiversity and geological features are conserved, enhanced, restored and created to assist in nature recovery. The use of mechanisms to improve biodiversity such as green roofs or green walls are encouraged.

Species

Protected, UK Priority, rare and endangered species surveys will be required where there is a reasonable likelihood of their presence. Where their presence is found or suspected their populations will be protected and enhanced during and after development. Developments that look to provide species provision into the development will be encouraged. {add new footnote}

Ecological network

Sites on international, national and local levels (including existing and potential Local Wildlife Sites) will be protected from development **to safeguard the criteria for which they were designated and thereby maintain their significant contribution to supporting a functional Green Infrastructure throughout the borough, county, sub-region and nationally.** The level of protection sought for the site will be at an appropriate scale to the site's designation status, and the contribution it makes to the ecological network. **Any Potential Local Wildlife Sites (pLWS) and LWS within or affecting a site will be surveyed for their ecological importance against the Guidance for the Selection of Local Wildlife Sites {add new footnote}. Where protection, retention and enhancement of these areas is not possible, this must be clearly demonstrated (including survey work) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against legislation and National and Borough Plan Review Policies.**

NE3 – Ecology, Biodiversity, Geodiversity and Local Nature Recovery

ADD Footnote to Policy text in reference to 'Species' to read:

Red and amber listed mammals and birds as per Natural England's standing advice surveys and mitigation measures provided. (Section 41 (Natural Environment and Rural Communities Act 2006), Schedule 1 (Wildlife and Countryside Act 1981), red listed and amber listed birds (Birds of Conservation Concern)

ADD Footnote to Policy text in 'Ecological network' in reference to pLWS and LWS to read:

THE GREEN BOOK Guidance for the Selection of Local Wildlife Sites in Warwickshire, Coventry and Solihull Local Wildlife Sites Project Habitat Biodiversity Audit (HBA) Warwickshire Wildlife Trust Ecological Services available at: [Guidance Note on Application of Site Selection Criteria \(warwickshire.gov.uk\)](http://warwickshire.gov.uk). Page 138 provides guidance notes for any planning application/development that is likely to impact on a potential pLWS.

NE3 – Ecology, Biodiversity, Geodiversity and Local Nature Recovery

ADD as new supporting sub-heading and text:

Survey expectations and development expectations.

The ODPM Circular 2006/5: Biodiversity and geological conservation makes it clear that protected species are a material consideration, and surveys will be required where there is a reasonable likelihood of their presence. It will be expected that species information is acquired from the Warwickshire Biological Record Centre to inform relevant applications and is used to inform any species surveys. The council will expect species surveys with the submission of an application for validation, conditions for surveys will only be issues in exceptional circumstances.

The council encourages applications that support the integration of species in their development. These features include hedgehog passageways, swift and house sparrow cavities and boxes as well as the use of non-invasive, high wildlife value shrubs.

Q138. Is the first part of the policy which refers to legislation necessary? Would it be more appropriate to refer to this legislation in the supporting text rather than in the policy itself?

Answer

138.1 Core Document [CD1] is applicable to this response.

138.2 It is agreed that the first part is legislation and Local Plans should not repeat legislation. Therefore, it is suggested as an additional modification within Question 137 above, in terms of the removal of the text from the policy. The below additional modification relates to moving the text and re-inserting it within Policy NE3's supporting text:

NE3 –Ecology, Biodiversity, Geodiversity and Local Nature Recovery

INSERT into supporting text:

The Natural Environment and Rural Communities Act 2006 (as amended), protected species, the Government's 25 Year Plan and Environment Act 2021 (footnote 105) are all key national legislation that must be adhered to.

Q139. Should the policy or supporting text refer to the Local Nature Recovery Strategy?

Answer

139.1 Core Documents [CD1] and [CD14] are applicable to this response.

139.2 The Environment Agency in their response to the Regulation 19 consultation [CD14] (representation reference 13.12) stated that:

‘The policy or text could reference the Local Nature Recovery Strategy as a key part of the evidence base, which can be used to inform opportunities, multiple benefits and to tackle climate change e.g., through reduced flood risk, or carbon sequestration.’

139.3 Nature Recovery is already mentioned under ecological and geological assessments. However, Local Nature Recovery strategies are now required (NBBC is covered by the strategy area Warwickshire and which Warwickshire County Council are the responsible authority for). Therefore, a suggested additional modification [CD22], to include reference to the sub-regional specific requirement, has already been added. This requires within the policy wording for assessments to demonstrate habitat retention and where appropriate enhance as per the ‘emerging Warwickshire Local Nature Recovery Plan.’

Q140. Is the policy consistent with national legislation and policy including the Framework, particularly with regard to the mitigation hierarchy and biodiversity net gain (BNG) requirements?

Answer

140.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

140.2 As stated previously, several responses to the Regulation 19 consultation [CD14] stated that the wording was not compliant with national legislation. The responses were discussed at length with the Warwickshire County Council Ecology Team and NBBC Ecology and Open Space Officers, and with their assistance, the whole policy was reviewed and amended. Please refer to the policy box shown before response to Question 137 which shows all the wording up-to-date, added together.

140.3 It is therefore considered that all the policy including the 'mitigation hierarchy' and 'biodiversity 10% net gain' is now in compliance with national requirements.

Q141. Is the term LBAP defined anywhere in the Plan?

Answer

141.1 Core Document [CD1] is applicable to this response.

141.2 The reference to Local Biodiversity Action Plans is only referenced once and is referenced as an acronym. Therefore, it is suggested as an additional modification to amend the acronym to its full title in Policy NE3 and to add its definition to the glossary as follows:

NE3 – Ecology, Biodiversity, Geodiversity and Local Nature Recovery

AMEND acronym to full wording:

Biodiversity Net Gain offsetting

All applicable development must demonstrate a minimum 10% Biodiversity Net Gain with offsite ~~net-gain offsetting will be~~**ing** required as a last resort once all available options in the mitigation hierarchy have been explored. Developers must use ~~Warwickshire County Council biodiversity offsetting metrics (until such time this is superseded by the mandatory use of the national metrics)~~ **the Statutory Metric** to quantify the impact, and to calculate an appropriate level of compensation to replace the lost habitat. If the habitat loss cannot be replaced on site, the replacement habitat should be provided, in the Borough, in the following order:

- A biodiversity strategic location.
- A location adjoining and/or linking a biodiversity strategic location.
- A location which significantly increases connectivity between **Local Biodiversity Action Plan (LBAP)** habitats – and/or any emerging Nature Recovery network location that aligns with targeted areas and corridors for increased ecological connectivity.

If this is not possible then the Warwickshire, Coventry and Solihull Green Infrastructure hierarchy is to be applied.

Glossary

ADD to glossary:

Local Biodiversity Action Plan (LBAP): These are aimed to look at conserving fauna, flora and habitats. These identify local priorities for biodiversity conservation and work to deliver agreed actions and targets for priority habitats and species and locally important wildlife sites. They also seek to reflect the values of local people and provide a focus for local initiatives. LBAPs are delivered through wide local partnerships that involve wildlife organisations, local authorities, businesses and other interested parties. In this instance it is referring to Warwickshire, Coventry and Solihull's plan.

Q142. Have the likely additional costs associated with BNG been accounted for in the viability assessment of the Plan?

Answer

142.1 Core Documents [CD1] and [CD10] are applicable to this response.

142.2 10% net gain is set out in National legislation and is mandatory and therefore there is no scope for applicants to request a reduction based on viability. Notwithstanding this, to ensure a Local Plan can be delivered the requirement has been included within the Viability Assessment [CD10]. The Assessment pages 39-40 states:

‘Biodiversity Net Gain (BNG) (Policy NE3 – ‘Biodiversity & Geodiversity’; SA1 – ‘Development principles on strategic sites’) – Requirement to deliver minimum net gain of 10%. For the purposes of this 15 MHCLG: The Future Homes Standard 2019 Consultation document and assessment, **we have assumed 10% net gain within all of the modelling undertaken to date**, assuming Scenario C (worst case) as set out in the Impact Assessment¹⁶ associated with the Government consultation on BNG – 2021 assessment work as a proxy to the uplift to the cost of achieving biodiversity units to £20,000 per unit (from £11,000 per BNG unit assumed within the Impact Assessment).’

Q143. Is it acceptable to require replacement habitat to be provided in the Borough.

Answer

143.1 Core Documents [CD1] and [CD22] are applicable to this response.

143.2 Obviously under the 'mitigation hierarchy' the sequential steps means that sequential applications need to look at avoidance, then minimisation and rehabilitation/restoration within the development and once these has been exhausted offsetting is the final resort.

143.3 It would be expected that firstly offsetting is looked at in proximity of the site as ultimately any habitat will likely have linkages outside of the site and with loss of habitat within the site this will likely put pressure on these surrounding areas. After this has been considered the developer is then encouraged to look as close to the site as possible for the offsetting, only when this has been exhausted will offsetting be acceptable further afield, but within the Borough. This is to increase the quality of habitat as much as possible within the Borough, including Local Nature Recovery Plans, and has always been a request of developers. The CIEEM, CIRIA and IEMA guidance - Biodiversity Net Gain - Good practice principles for development (2016)⁴⁶, provides ten principles. Principle 6 sets out how to achieve the best outcomes for biodiversity by making clearly justified choices on a number of criteria. One of these criteria is by: 'Achieving Net Gain locally to the development while also contributing towards nature conservation priorities at local, regional and national levels'. Criterion 8 that refers to a Net Gain legacy looks at the longer-term benefits by: 'Supporting local-level management of Net Gain activities.' By using a Borough approach first, it is considered that this fulfils these principles.

⁴⁶ [Biodiversity-Net-Gain-Principles.pdf \(cieem.net\)](#)

- 143.4 It is recognised that as time progresses that local offsetting is going to become more problematic and therefore it has already been suggested that, as an additional modification [CD22] reference is then made to: **'If this is not possible then the Warwickshire, Coventry and Solihull Green Infrastructure hierarchy is to be applied.'**
- 143.5 It is therefore considered that the Council's approach is robust and complies with good practice.

Q144. With regard to monitoring ref NE3a, is it realistic to expect no deterioration to a local wildlife site when it is affected by a strategic allocation?

The monitoring requirement for NE3a is:

Monitoring ref	Indicator	Target
NE3a	Deterioration in SSSI, Special Area of Conservation and local wildlife sites.	No deterioration; maintain at favourable status.

Answer

144.1 Core Documents [CD1] and [CD14] are applicable to this response.

144.2 A response from FCC Environment UK Ltd to the Regulation 19 consultation [CD14] (representation reference 108.11) stated that this is an unrealistic target. The Council would contend that in the first instance the requirement would be to aim for no level of deterioration.

144.3 As described in the Council's answer to Question 47, certainly for high distinctive areas, the Statutory Metric describes Habitat Distinctiveness 6 as 'High' value with Distinctiveness 8 as 'Very High'. This means that they are UK Priority Habitat and protected under the NERC Act Section 41 list and with those of 'High' would be most likely be designated in some way such as a SSSI or LWS. The Council's answer to Question 48, then goes on to describe why protection of sites, including LWS, should be the first priority.

144.4 By wording the monitoring requirement as 'no deterioration,' it would mean that any sites that are picked up in monitoring can be reviewed and lessons learnt.

Policy NE4 – Managing flood risk and water quality

The entire policy reads as follows:

Policy NE4 – Managing flood risk and water quality

Managing flood risk

New development should be prioritised to areas of lowest flood risk and must not increase flood risk elsewhere. This should consider the risk from all sources including fluvial, surface water, groundwater and sewer flood risk, making use of the SFRAs (both Level 1 and Level 2) (August 2023), available public mapping such as the Flood Map for Planning and the Flood Risk from Surface Water map and historic flood information (which is available from the Lead Local Flood Authority (LLFA) and other partners).

Flood risk should be considered proportionately for all development. A site-specific Flood Risk Assessment will be required to support planning applications for major developments or those in areas at risk of flooding, in order to demonstrate that the risk both within the site and to surrounding/downstream sites is not increased.

Submitted Flood Risk Assessments should refer to the recommendations of the latest SFRA: Level 2 (August 2023), the Humber and Severn Flood Risk Management Plans and Warwickshire County Council's Local Flood Risk Management Strategy. Notwithstanding the requirement for a Flood Risk Assessment for major developments to be submitted, all developments will require a drainage strategy which demonstrates how surface water will be managed in accordance with the drainage hierarchy and flood risk will not be increased downstream.

New development proposals must account for climate change in their plans to ensure that the site will be safe over its lifetime. This should consider the potential for exceedance events, for example due to extreme events beyond design standards or through failure of assets, and how such overland flows are directed safely through a development without exposing new or existing property to greater flood risk.

A sequential approach to the layout of the development should be taken so that buildings and access routes are located in areas of lowest flood risk. Modification of ground levels/compensation works may be undertaken in order to reconfigure land located within flood zone 3a. However, modifications to increase land available for development is not permitted. With any changes in ground levels, detailed consideration should be given to exceedance/overland flow routes.

For development located in areas at risk of flooding, mitigation measures should be provided up to the 1% annual probability plus climate change flood event. Safe access and egress must also be demonstrated. Finished floor levels in areas at risk of flooding should be set no lower than 600mm above the 1% annual probability plus climate change flood level.

All new developments should contribute to creating space for water through use of blue and green infrastructure, and where relevant, restoring functional floodplains (flood zone 3b). New developments should also seek opportunities for river restoration and enhancement, e.g. de-culverting, removing structures and reinstating a natural, sinuous river channel. As a minimum all developments are required to provide an 8m wide undeveloped buffer strip from the watercourse (from the top of the bank or the centreline of the culvert) to allow access for routine maintenance and emergency clearance.

In terms of the risks to traditional buildings from flooding, care must be taken not to introduce inappropriate retrofitted measures which would prevent effective drying and shorten the life of the building.

Flood risk management schemes (flood defences)

Proposals for new developments should not detrimentally impact upon existing and planned flood risk management schemes. New developments that will benefit from existing flood risk management schemes will be required to contribute towards their ongoing maintenance, in line with the requirements of the IDP.

Land that is required for current and future flood management will be safeguarded from development.

SuDS

New development will be required to implement appropriate, above-ground, SuDS techniques in order to manage surface water run-off. For all sites, surface water discharge rates should be no greater than QBar (or QMed) site-specific greenfield run-off rates, unless otherwise agreed by the LLFA. Warwickshire County Council's Flood Risk Guidance for Development (footnote110) should be referenced for drainage design and guidance on discharge rates.

Surface water run-off should be managed as close to its source as possible and discharged in line with the surface water drainage hierarchy. Opportunities to utilise rainwater harvesting or reuse should be explored, to have benefits for both flood risk and water scarcity. Discharge via any sewer network is considered the last resort and where discharging into 3rd party assets (e.g. sewer network), written confirmation from the asset owner of the acceptance of such connection will be required. All redevelopment of brownfield sites should seek to remove existing connections to the public sewer for surface water drainage.

Developers are encouraged to contact Severn Trent, regarding sewer capacity, at an early stage of planning, to ensure adequate time is available to assess the risk and develop any network improvements should they be required.

All development proposals and public realm improvements should consider the use of urban wetlands and street rain gardens as part of sustainable drainage schemes, particularly where there are known surface water flooding problems, or where wildlife habitat connectivity could be enhanced or restored.

Above ground SuDS features must be included within all development in order to bring wider sustainability benefits including improved water quality, enhanced biodiversity and amenity/leisure value.

SuDS should be dispersed across a development (e.g. not concentrated in a single attenuation feature) with consideration given to design for and retaining the first 5mm of rainfall. SuDS should be designed so that they do not impact on archaeology. Impacts can be caused by draining waterlogged archaeology or introducing surplus water and pollution from surface runoff into archaeological sediments via soakaways. Consideration should be given to the most appropriate

course of action to protect buried waterlogged archaeology through the design of SuDS features.

Details of the SuDS proposed to be used, including operation and maintenance, must be agreed at the earliest possible stage with the LLFA.

Water quality

New developments must demonstrate that they will not result in adverse impacts on the quality of waterbodies, groundwater and surface water, will not prevent waterbodies and groundwater from achieving a good status in the future and contribute positively to the environment and ecology, in and adjacent to the Borough.

All attempts must be made to separate surface water and foul water, ensuring that surface water connections are not made to the foul/combined sewer network.

The management and improvement of water quality should be considered hand-in-hand with the provision of SuDS across a development. Proposals should be accompanied by a proportionate assessment (e.g. simple index approach) outlining the risks of a development proposal and how the proposed surface water drainage system will manage and mitigate those risks.

Proposals will benefit the river network by restoring the functional floodplain and reinstating a natural meandering river channel where it has previously been lost. In doing so, development proposals should refer to the principles of the EU Water Framework Directive and the associated actions and objectives of the Humber and Severn River Basin Management Plans (RBMPs).

Management schemes supported by the RBMPs will be encouraged within development proposals, such as the use of tree planting to reduce soil run-off into watercourses, standing water bodies and groundwater.

Groundwater quality

Where development has the potential to directly or indirectly pollute groundwater, a Groundwater Risk Assessment, demonstrating that the development proposal and subsequent works required will not lead to deterioration in groundwater quality and quantity, is needed to support the planning application.

If a deterioration in groundwater quality cannot be avoided, there will be a presumption against the development proposal.

All new housing and employment allocations with piled foundations or basements, within 1km of Ensor's Pool Special Area of Conservation, should undertake a hydrogeological study to confirm that it will not affect groundwater flows or quality at the Special Area of Conservation.

The Policy has been amended throughout the process as legislation has changed and was written with direct consultation with the Environment Agency, Severn Trent Water and Warwickshire County Council Flood Risk Management.

Q145. Is the policy consistent with the Framework? In particular, should it seek to improve water quality wherever possible in accordance with paragraph 174?

Answer

145.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

145.2 Paragraph 152 of the NPPF refers to climate change resilience and the policy aims to do this by reducing surface water run-off from development.

Paragraphs 153 and 154 of the NPPF refer to mitigation for climate change and paragraph 159 by ensuring development is safe for its lifetime without increasing flood risk elsewhere and by providing resilience and reducing water usage. Policy NE4 does this by ensuring that development considers increased intense rain-water periods and by using climate change modelling. Policy NE4 states that development is also expected to contribute to any existing flood relief schemes and requires reduced run-off from green field and promotes the use of urban wetlands and rain gardens to reduce temperature hotspots in built up areas. Policy NE4 also refers to sequential tests as required by paragraph 161 of the NPPF. The policy also considers class use vulnerabilities as per paragraph 167 of the NPPF. Policy NE4 gives requirements for SuDS within the policy and which also states that details of the SuDS proposed to be used, including operation and maintenance, must be agreed at the earliest possible stage with the Lead Local Flood Authority. The policy also refers to Warwickshire County Council Flood Risk Guidance. This complies with regards to paragraph 169 of the NPPF.

145.3 Paragraph 53 of the NPPF also refers to water supply and reducing water usage. Severn Trent Water and the Environment Agency made representation to the Regulation 19 consultation [CD14] (consultation response 13.10) for the need for water efficiency and Policy NE4 includes elements such as water harvesting and water usage reduction. The Environment Agency suggested that reference should be made to the Water Cycle Study. It is considered that the recommendations from the extant Water Cycle Study as well as the water

reduction requirements in the Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA) have been woven into several policies throughout the plan, particularly within Policy NE4. However, the Water Cycle Study has not been mentioned within ground water quality in Policy NE4, although water efficiency has been referred to in Policy BE3. Therefore, it is proposed within the supporting text that a footnote is provided to the extant Water Cycle Study and emerging one.

145.4 Also, in relation to Water Quality, the NPPF paragraph 174e refers to the requirement of new and existing developments putting unacceptable risk by unacceptable levels of water pollution. And that development should improve the local environment conditions such as water quality considering river basin management plans. The policy is consistent with this, as within the policy, under the title 'managing flood risk', reference is made to ensure that drainage strategies are required to demonstrate how surface water will be managed in accordance with the drainage hierarchy and flood risk will not be increased downstream.

145.5 Severn Trent Water responded to the Regulation 19 stage [CD14] (representation reference 6.23) and requested an addition within the water quality section to ensure 'good status' water quality. This has been recommended as a modification as per the below:

Policy NE4 – Managing flood risk and water quality

ADD within policy text:

Groundwater quality

New developments must demonstrate that they will not result in adverse impacts on the quality of waterbodies, groundwater and surface water, will not prevent waterbodies and groundwater from achieving a good status in the future and contribute positively to the environment and ecology. Where development has the potential to directly or indirectly pollute groundwater, a Groundwater Risk Assessment, demonstrating that the development proposal and

subsequent works required will not lead to deterioration in groundwater quality and quantity, is needed to support the planning application.

If a deterioration in groundwater quality cannot be avoided, there will be a presumption against the development proposal.

All new housing and employment allocations with piled foundations or basements, within 1km of Ensor's Pool Special Area of Conservation, should undertake a hydrogeological study to confirm that it will not affect groundwater flows or quality at the Special Area of Conservation.

Policy NE4 – Managing flood risk and water quality

ADD footnote to section on Groundwater of supporting text to read:

Groundwater quality

12.66 Groundwater accounts for around a third of public water supply in England and Wales. Unfortunately, it is also under threat from unsustainable levels of 121 HM Government (2018). A Green Future: Our 25 Year Plan to Improve the Borough Plan Review - Publication Draft Plan 182 abstraction for drinking water, exceeding the rate at which rainfall can recharge aquifers. This in turn causes further problems, as lower groundwater levels can affect river flows, wetlands and is seen as one of the causes for not achieving good ecological status in some rivers, lakes and estuaries. The higher Building Regulations requirements for water efficiency, as set out in Policy BE3 – Sustainable design and construction, will contribute towards ensuring sustainable water supply and abstraction **(add footnote)**.

Add footnote to paragraph 12.66 to read:

Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA)

- 145.6 In reference to the consideration of flood risk over the lifetime of development, the Environment Agency requested that their local area climate change guidance was included in the policy. This has already been suggested within a new heading and supporting text [CD22].
- 145.7 In conclusion it is considered that the policy meets the Framework and CIRIA (2015), the SuDS Manual (C753) and with the provided additional modifications within [CD22] and from the suggested modifications to this Question, that it also meets guidance to improve water quality.

Q146. Is the 3rd paragraph under the heading SuDS a policy requirement or is it advice?

The relevant part of the policy states the following:

Developers are encouraged to contact Severn Trent, regarding sewer capacity, at an early stage of planning, to ensure adequate time is available to assess the risk and develop any network improvements should they be required.

Answer

146.1 Core Document [CD1] is applicable to this response.

146.2 The Council have worked with Severn Trent Water consistently through the Plan-making process, including between the consultation periods. Their Preferred Options representation (representation reference 15.10) stated:

‘We are supportive of your policy, in particular reference to the drainage hierarchy, see our section on Surface water below for supporting wording for your evidence base. We encourage you to include the following:

- Inclusion of sewer flooding as a source of flooding
- **Inclusion of encouragement of developers to contact Severn Trent regarding sewer capacity at an early stage of planning to ensure we have adequate time to assess the risk and develop any network improvements should they be required.’**

146.3 Similarly, at the same time they submitted a ‘potential impact of the proposed allocations on the sewer network – L1SCA PrO_NB_2022’. In this document they advised:

‘For most new development provided the surface water in managed sustainably through use of a SuDS the additional foul only flows will have a negligible impact on existing sewer performance but where there are

pre-existing capacity constraints additional capacity improvements may be required.

Where subsequent detailed modelling indicates capacity improvements are required such work will be phased to align with development occupancy with capacity improvement works will be funded by Severn Trent Water. However, whilst Severn Trent have a duty to provide additional capacity to accommodate planned development, we also have a requirement to manage our assets efficiently to minimise our customers' bills.' Consequently, to avoid potential inefficient investment we generally do not provided additional capacity until there is certainty that the development is due to commence. **Where development proposals are likely to require additional capacity upgrades to accommodate new development flows it is highly recommended that potential developers contact Severn Trent as early as possible to confirm flow rates and intended connection points. This will ensure provision of additional capacity can be planned into our investment programme to ensure development is not delayed'.**

146.4 The wording was considered prudent and subsequently added to the Publication (Regulation 19) document and has been supported by the Environment Agency.

146.5 It is noted that this is not directly related to SuDS and is an advisory note rather than policy. Therefore, it is suggested that a further modification is considered as follows:

Policy NE4 – Managing flood risk and water quality

DELETE and ADD to policy wording as follows:

SuDS

New development will be required to implement appropriate, above-ground, SuDS techniques in order to manage surface water run-off. For all sites, surface water

discharge rates should be no greater than QBar (or QMed) site-specific greenfield run-off rates, unless otherwise agreed by the LLFA. Warwickshire County Council's Flood Risk Guidance for Development¹¹⁰ should be referenced for drainage design and guidance on discharge rates.

Surface water run-off should be managed as close to its source as possible and discharged in line with the surface water drainage hierarchy. Opportunities to utilise rainwater harvesting or reuse should be explored, to have benefits for both flood risk and water scarcity. Discharge via any sewer network is considered the last resort and where discharging into 3rd party assets (e.g. sewer network), written confirmation from the asset owner of the acceptance of such connection will be required. All redevelopment of brownfield sites should seek to remove existing connections to the public sewer for surface water drainage.

~~Developers are encouraged to contact Severn Trent, regarding sewer capacity, at an early stage of planning, to ensure adequate time is available to assess the risk and develop any network improvements should they be required.~~

All development proposals and public realm improvements should consider the use of urban wetlands and street rain gardens as part of sustainable drainage schemes, particularly where there are known surface water flooding problems, or where wildlife habitat connectivity could be enhanced or restored

Above ground SuDS features must be included within all development in order to bring wider sustainability benefits including improved water quality, enhanced biodiversity and amenity/leisure value. **Any exception for this, such as on confined brownfield sites or areas of contamination; the applicant must clearly demonstrate that above ground Suds is not feasible. Even where significant constraints exist, a mixture of above and below ground components can often be used in combination.**

SuDS should be dispersed across a development (e.g. not concentrated in a single attenuation feature) with consideration given to design for and retaining the first 5mm of rainfall. SuDS should be designed so that they do not impact on archaeology. Impacts can be caused by draining waterlogged archaeology or introducing surplus water and pollution from surface runoff into archaeological

sediments via soakaways. Consideration should be given to the most appropriate course of action to protect buried waterlogged archaeology through the design of SuDS features.

Details of the SuDS proposed to be used, including operation and maintenance, must be agreed at the earliest possible stage with the LLFA.

Add at start of supporting text:

Policy NE4 – Managing flood risk and water quality

ADD new title and new supporting text to read, (emphasise by adding within a box):

Severn Trent Water advise:

Developers are encouraged to contact Severn Trent regarding sewer capacity at an early stage of planning to ensure adequate time is available to assess the risk and develop any network improvements should they be required

Q147. Should the policy refer to pedestrian access for more vulnerable development where overnight accommodation is proposed and to opportunities for flood risk reduction and ordinary/un-modelled watercourses?

Answer

147.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

147.2 The Environment Agency's response to the Regulation 19 consultation stage [CD14] (representation reference 13.13), requested that their local area climate change guide was added in the policy. It includes guidance for more vulnerable properties where pedestrian access is required for overnight accommodation during flooding and for opportunities for flood risk reduction including in modelled courses. This was considered appropriate and has already been added as a suggested additional modification [CD22].

Q148. Is the policy requirement for above ground SuDS techniques justified and does it provide sufficient flexibility?

The relevant part of the policy states the following:

Above ground SuDS features must be included within all development in order to bring wider sustainability benefits including improved water quality, enhanced biodiversity and amenity/leisure value.

Answer

148.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

148.2 Richborough responded to the Regulation 19 consultation [CD14] (representation reference 110.7) to advise that SuDS should not just be restricted to above ground.

148.3 The Lead Local Flood Authority for the area, Warwickshire County Council, state within their 'Flood Risk Guidance for Development' (Version 5 - June 2023) (chapter 7.3) that they expect SuDS 'to be above-ground to meet all four pillars of SuDS; water quantity, water quality, amenity and biodiversity.'

148.4 An Inspector to a recent Appeal, that included cellular storage within NBBC (Appeal Ref: APP/W3710/W/23/3323587)⁴⁷ stated in paragraph 29 stated that: 'The Council is concerned that the proposed surface water drainage is not a truly sustainable system as it includes underground attenuation. In these regards, the development would go against the preference set out in BP policy'.

148.5 However, the Council does recognise that there are some occasions where above ground SuDS are not appropriate and therefore suggest wording to Policy NE4, proposed in the modification shown in response to Question 146, regarding 'Any exception for this...'.

⁴⁷ [Reference: APP/W3710/W/23/3323587 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/W3710/W/23/3323587/)

Policy BE1 – Contamination and land instability

Q149. Does part 2c of the policy need amending for effectiveness? As drafted, it does not refer to a document type.

The relevant part of the policy states:

Policy BE1 – Contamination and land instability

2c. That any risks of creating land instability likely to adversely affect nearby land or infrastructure have been adequately mitigated.

Following a response from the Environment Agency, to the Regulation 19 consultation [CD14] (response reference 13.14), amendments were suggested in the form of additional modifications [CD22] to supporting text as follows:

BE1 – Contamination and land instability

ADD new subheading and text to supporting text before paragraph 13.9 to read:

Advice from the Environment Agency

“When promoting land affected or potentially affected by contamination developers and site promoters are actively encouraged to engage with the Environment Agency as early as possible in the planning process to follow the risk management framework provided in Land Contamination Risk Management (LCRM) 2020, available on gov.uk.

Furthermore, the Environment Agency recommend developers of land affected by contamination should:

- **Follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination**
- **Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health**
- **Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed**
- **Refer to the contaminated land pages on gov.uk for more information”**

Answer

149.1 Core Document [CD1], [CD14] and [CD22] are relevant to this response.

149.2 Both the Environment Agency, in their response to the Regulation 19 consultation [CD14] (reference 13.3, 13.5 and 13.7 referred to contamination and land instability, and the Coal Authorities (response reference 7.1) supported the need for 2c of the policy.

149.3 The NPPF paragraphs 174e and 183 require that new development do not cause land instability. The glossary of the NPPF states that a person preparing a site investigation for this should be a:

“Competent person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.”

149.4 The PPG has a section on ‘land stability’ and that the planning system has an important role in considering land stability (Paragraph: 001 Reference ID: 45-

001-20190722). Paragraph 4 of the same section provides links on land stability and subsequent paragraphs provide details of establishing if there is a risk, and details on a risk assessment and what they should contain. The PPG goes further (Paragraph: 009 Reference ID: 45-009-20140306) and states that a report should be completed by:

“Land or slope instability risk assessment reports should be prepared by an appropriately qualified person such as chartered members of a relevant professional institution.”

149.5 For clarity it is therefore suggested that reference to the PPG is made and that site investigations should be carried out by a suitably qualified person to the UK's guide for 'Stabilisation'.

Policy BE1 – Contamination and land instability

ADD to criteria c to read:

c. That any risks of creating land instability likely to adversely affect nearby land or infrastructure have been adequately mitigated. **(Reference should be made to the; UK Government's Approach to Stabilisation; A guide for policy makers and practitioner' (stabilisation unit) and Planning Practice Guidance and that any site investigation/land slope instability risk assessment should be prepared by a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.)**

Policy BE2 – Renewable and low carbon energy

The policy states:

Policy BE2 – Renewable and low carbon energy

To address the climate change emergency, schemes providing renewable and low carbon technologies will be supported unless material considerations indicate otherwise. These include schemes that promote biomass energy, ground and air source heat pumps, solar thermal and solar photovoltaic.

Development should connect to any existing community/district heating schemes where appropriate or consider installing new combined systems, and should also consider the viability of biomass heating, combined heat and power, and utilising surplus heat.

Development must reflect the Climate Change Act 2008, zero carbon emissions by 2050, the Environment Act 2021 and subsequent emerging Acts. Therefore, new development must make use of sustainable transport, sustainable materials, minimise waste materials, make use of low carbon technologies, renewable energy and energy efficiency measures. The use of the higher Building Regulation requirements will be encouraged and supported.

Proposals for retrofitting microgeneration technologies in existing developments will be approved, subject to a suitable assessment of the potential impacts to the local area. Community led initiatives for renewable and low carbon energy schemes will be approved.

Wind Energy

Proposals for small scale wind energy will be supported where appropriate in conjunction with the below criteria:

1. No significant harm to the amenity of and safety of residential areas, particularly in relation to:

- a. Noise pollution, proximity and/or highway safety.
- b. Electromagnetic interference.
- c. Unacceptable shadow flicker.
- d. Impacts on aviation.

2. Certified accreditation or similar evidence of the wind turbine meeting the RenewableUK Small Wind Turbine Performance and Safety Standard should be provided, with the planning application, prior to the granting of planning permission.

3. A decommissioning scheme is in place. The applicant should expect that the Council will request that a bond be provided under a planning obligation to cover the cost of decommissioning and/or restoration of the site.

When considering proposals for wind turbines, the Council will balance conflicting objectives, such as the need to increase renewable energy uptake, against the need to protect attractive landscapes, heritage, nature conservation and local amenity. Whilst some of these issues may be reduced through mitigation, the overall impact might still be unacceptable. Consequently, any benefits arising from wind turbine proposals will be weighed against their potential harm.

Amendments were recommended to this policy in the form of additional modifications [CD22] to supporting text as follows:

Policy BE2 – Renewable and low carbon energy

ADD wording to policy box to the first paragraph to read:

To address the climate change emergency, schemes providing renewable and low carbon technologies will be supported unless material considerations indicate otherwise. These include **but are not exclusive to** schemes that promote biomass energy, ground and air source heat pumps, **hydro power**, solar thermal and solar photovoltaic.

The modification explained the reason for this was at the request of (former) Councillor Kondakor and agreed by the Council under the Regulation 19 response (ref.301.16). Considered an additional modification as the amendments are for clarity and to allow for other renewable energy. This does not affect the soundness or legal compliance.

Q150. Does the first part of the policy offer sufficient flexibility for other types of renewable and low carbon technologies to be supported and should it specifically refer to hydro power?

Answer

150.1 Core Documents [CD1], [CD14] and [CD22] are applicable to this response.

150.2 There were many responses to Policy BE1 within the Regulation 19 responses received [CD14]. Some were largely supportive such as the Environment Agency (response reference 13.15), Historic England (response reference 15.12), Holt Property Ltd (response reference 109.14) and Asteer Planning LLP (125.10). (Former) Councillor Kondakor (response reference 301.16) requested that biomass was removed, and hydropower included. Whilst it was considered that it was not appropriate to remove biomass, hydropower was included and a caveat that the schemes listed were not ‘exclusive to’ these amendments are suggested in the above modifications within [CD22].

150.3 The Home Builders Federation, to the Regulation 19 consultation [CD14] (response reference 16.19), requested that hydrogen and waste heat recovery was included. The Council concur with this and have therefore suggested that a further modification is included as per below:

Policy BE2 – Renewable and low carbon energy

ADD additional wording with that already recommended in [CD22] to the first paragraph of the policy box to read:

To address the climate change emergency, schemes providing renewable and low carbon technologies will be supported unless material considerations indicate otherwise. These include **but are not exclusive to** schemes that promote biomass energy, **hydrogen power, waste heat recovery**, ground and air source heat pumps, **hydro power**, solar thermal and solar photovoltaic.

Q151. The policy requires development to connect to any existing community/district heating schemes where appropriate or to consider installing new schemes. Is this approach justified, effective and consistent with national policy?

The relevant paragraph, referring to this Question, is as follows:

Policy BE2 – Renewable and low carbon energy

Development should connect to any existing community/district heating schemes where appropriate or consider installing new combined systems, and should also consider the viability of biomass heating, combined heat and power, and utilising surplus heat.

151.1 The Core Documents most relevant to this Question are [CD1] and [CD14].

151.2 The reference to community and district heating was carried over from the previous adopted Local Plan (2011-2031) when power supply was promoted through mainly gas or electricity and connection to existing community/district heating was considered to be more environmentally friendly than providing separate gas boilers for each property. However, over time, gas boilers are likely to be withdrawn from new premises and instead more carbon efficient heat supplies will be required. The Home Builders Federation response to the Regulation 19 consultation [CD14] (response reference 16.19) recognised that moving forwards CHP or District Heating are not likely to be the most environmentally friendly form of heating compared to other new and emerging forms of power. The Council concur with this and suggest that this entire paragraph is removed as follows:

Policy BE2 – Renewable and low carbon energy

REMOVE second paragraph in policy as follows:

~~Development should connect to any existing community/district heating schemes where appropriate or consider installing new combined systems, and should also consider the viability of biomass heating, combined heat and power, and utilising surplus heat.~~

Q152. The policy refers to “low carbon” and “zero carbon”, is it clear what is meant by these terms?

The most relevant parts of the policy, referring to the above Question, are as follows:

Policy BE2 – Renewable and low carbon energy

To address the climate change emergency, schemes providing renewable and low carbon technologies will be supported unless material considerations indicate otherwise. These include schemes that promote biomass energy, ground and air source heat pumps, solar thermal and solar photovoltaic.

Development must reflect the Climate Change Act 2008, zero carbon emissions by 2050, the Environment Act 2021 and subsequent emerging Acts. Therefore, new development must make use of sustainable transport, sustainable materials, minimise waste materials, make use of low carbon technologies, renewable energy and energy efficiency measures. The use of the higher Building Regulation requirements will be encouraged and supported.

Proposals for retrofitting microgeneration technologies in existing developments will be approved, subject to a suitable assessment of the potential impacts to the local area. Community led initiatives for renewable and low carbon energy schemes will be approved.

Answer

152.1 The most relevant Core Documents to this Question are [CD1] and [CD14].

152.2 The NPPF states, at paragraph 152, that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure. Similarly, paragraph 155 refers to plans providing a positive strategy and “the use and supply of renewable and low carbon energy”.

152.3 Arbury Estate’s response to the Regulation 19 consultation [CD14] (response reference 106.16) required that low carbon technologies and zero carbon needed defining. This was considered unnecessary at the time as the wording is heavily used within the NPPF; PPG (such as within the section

under 'Planning for renewable and low carbon energy') and Climate Change Acts.

152.4 To provide clarity, it is suggested that the definitions are included in the Borough Plan Review glossary. The definitions have been taken from EDF⁴⁸ and National Grid⁴⁹ as follows:

Glossary

ADD to glossary two definitions as follows:

Low carbon energy: Energy generated from low-carbon sources such as wind, solar, hydro and nuclear power. These release less carbon into the atmosphere. The term "low carbon" simply refers to the reduction of carbon dioxide (CO2) emissions.

Zero carbon: No carbon emissions are being produced from a product or service (for example, a wind farm generating electricity, or a battery deploying electricity)

⁴⁸ [Low-Carbon Energy | Types & Sources | EDF \(edfenergy.com\)](https://www.edfenergy.com/low-carbon-energy/types-sources)

⁴⁹ [What is net zero and zero carbon? | ESO \(nationalgrideso.com\)](https://www.nationalgrideso.com/what-is-net-zero-and-zero-carbon/)

Q153. Does paragraph 3 of the policy provide sufficient clarity about how this part of the policy could be met?

The most relevant parts of the policy, referring to the above Question, are as follows:

Policy BE2 – Renewable and low carbon energy

Development must reflect the Climate Change Act 2008, zero carbon emissions by 2050, the Environment Act 2021 and subsequent emerging Acts. Therefore, new development must make use of sustainable transport, sustainable materials, minimise waste materials, make use of low carbon technologies, renewable energy and energy efficiency measures. The use of the higher Building Regulation requirements will be encouraged and supported.

Answer

153.1 Core Document [CD1] is applicable to this response.

153.2 Climate change and reducing carbon emissions is a golden thread throughout the Borough Plan Review, so it is considered that the reference to the relevant national legislation is appropriate. However, it can be appreciated that it is unclear how these elements need to be considered within this policy. It is therefore suggested that additional wording is included as per the recommendations below. The policy then will describe how the intentions of these Acts can be provided within development.

Policy BE2 – Renewable and low carbon energy

AMEND, ADD and DELETE paragraph 3 as per in response to Question 153 and 154 and to also remove the last sentence to read:

Development must **be mindful** ~~reflect~~ **of** the Climate Change Act 2008, zero carbon emissions by 2050 **and** the Environment Act 2021 ~~and subsequent emerging Acts~~ **and where possible look to reduce carbon emissions and provide resilience to climate change in developments**. Therefore, new

development must **where possible** make use of sustainable transport, sustainable materials, minimise waste materials, make use of low carbon technologies, renewable energy and energy efficiency measures. ~~The use of the higher Building Regulation requirements will be encouraged and supported.~~

Q154. Is the reference to higher building regulations requirements justified and appropriate?

The relevant part of the policy states:

Policy BE2 – Renewable and low carbon energy

The use of the higher Building Regulation requirements will be encouraged and supported.

Answer

154.1 The most relevant Core Documents to this response are [CD1] and [CD14].

154.2 Arbury Estates reference to the Regulation 19 consultation [CD14] (response reference 106.16) states that reference to the higher Building Regulations should be removed. The Council agree that as the reference is unclear as to what this policy is referring to that it is removed. See suggested modification in response to Question 153 above. The requirements for the relevant parts of the higher Building Regulations are already within Policy BE3 for water efficiency and Future Homes and for which justification has been provided in the Council's responses to Questions 50, 158, 160 and 161.

Q155. Does the last part of paragraph 4 relating to the approval of community led initiatives need to be caveated to if in accordance with other policies in the Plan?

The relevant part of the policy states:

Policy BE2 – Renewable and low carbon energy

Proposals for retrofitting microgeneration technologies in existing developments will be approved, subject to a suitable assessment of the potential impacts to the local area. Community led initiatives for renewable and low carbon energy schemes will be approved.

Answer

155.1 Core Document [CD1] is applicable to this response.

155.2 The PPG under the section ‘Renewable and low carbon energy’ under ‘What is the role for community led renewable energy initiatives?’ (Paragraph: 003 Reference ID: 5-003-20140306) states: “community initiatives are likely to play an increasing important role and should be encouraged as a way of considered that this is appropriate.” However, it is agreed that any such initiatives will need to comply with other Policies and it is therefore proposed that the suggested modification below is included:

Policy BE2 – Renewable and low carbon energy

ADD to paragraph 4 of the policy to read:

Proposals for retrofitting microgeneration technologies in existing developments will be approved, subject to a suitable assessment of the potential impacts to the local area. Community led initiatives for renewable and low carbon energy schemes will be approved **if in accordance with other Policies in the Plan.**

Q156. Is it necessary for the policy to refer to which locations low carbon developments and EV charging stations may be acceptable e.g. outside of settlement boundaries and/or to allocate specific sites?

Answer

156.1 Core Documents [CD1] and [CD14] are most relevant to this Question.

156.2 The PPG under the title 'Planning for renewable and low carbon energy: introduction' and subtitle 'How can local planning authorities identify suitable areas for renewable and low carbon energy?' (Paragraph: 003 Reference ID: 5-003-20140306) states that: "there are no hard and fast rules about how suitable areas for renewable energy should be identified" and purely states "when identifying suitable areas" and the NPPF in paragraph 155b states that plans can 'consider identifying suitable areas for renewable and low carbon energy sources.' However, it does not stipulate that areas must be identified as a mandatory requirement. The Council are likely to be considering an 'Area Energy Action Plan' in the future in combined sub-regional work. However, this is not definite. If and once, this is completed then it may be appropriate to take this further and look at locating specific area for renewable schemes to make use of appropriate areas with available electrical infrastructure but it is not considered appropriate at this time.

156.3 Holt Property Ltd's response to the Regulation 19 consultation [CD14] (response reference 109.14) specifies that consideration should be given to low carbon schemes being outside of the settlement boundary and that EV charging stations should be included within the policy.

156.4 It is acknowledged that small or large scale schemes such as solar farms are likely to be outside of the settlement boundaries, but it is considered that Policy DS2 – Settlement hierarchy and roles already states that certain development can be provided outside of settlement boundaries where these are "demonstrated as appropriate". It is therefore considered that this does not need to be included in Policy BE2.

156.5 It is considered that the policy should not locate areas for low carbon developments or EV charging stations because by locating specific areas this could jeopardise other schemes outside of these areas. Therefore, schemes will be considered on a case by case basis as and when they are brought forwards.

Q157. Should the policy include a specific requirement for renewable / low carbon technologies in new residential development?

Answer

157.1 Core Documents [CD1] and [CD14] are most relevant to this Question.

157.2 Individual responses to the Regulation 19 stage [CD14] (response references 301.16, 404.5 and 404.6) state that this should be included in the policy. However, this is covered in Policy BE3 as the lead policy for Sustainable Design and Construction, for residential and non-residential properties, and therefore does not need to be duplicated.

Policy BE3 – Sustainable design and construction

Q158. As worded, does the policy provide sufficient flexibility?

Policy BE3 – Sustainable design and construction

All Development proposals must be:

1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes. Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).
2. Able to evidence efficient use and protection of natural resources.
3. Able to evidence that new developments are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding 110 litres/person/day (or any future reduction stated within an updated version of the Building Regulations 2010).
4. Able to evidence that new development will maximise energy efficiency and meet the optional higher standard for Building Regulations in regard to energy use. Development should adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025, by promoting a fabric first approach, including the use of passive design principles where possible.
5. Minimise the potential for pollution of air, soil, noise and light, and in particular not contribute to unacceptable levels of air pollution.
6. Adaptable, resilient and minimise climate change impacts to achieve the nation's carbon net zero emissions target by 2050.
7. Able to reduce crime by demonstrating where the principles of Secured by Design have been incorporated into the design including consideration of wider security and defence.
8. Able to promote sustainable transport.
9. Able to promote placemaking strategies for an inclusive, safe, accessible and healthy living environment for all.

Urban character

All development proposals must contribute to local distinctiveness and character by reflecting the positive attributes of the neighbouring area and respecting the sensitivity to change of the generic character types within each urban character area. Development must take a comprehensive and co-ordinated approach, respecting existing constraints, including utilities, situated within each site. Key characteristics to consider include:

10. Current use of buildings.
11. Ownership/tenure.
12. Street layout.
13. Patterns of development.
14. Residential amenity.
15. Plot size and arrangement.
16. Built form.

Heritage assets

Heritage assets can be a valuable aid to achieving sustainable development, in both climate change mitigation and adaption. For example, retaining, repairing, refurbishing, retrofitting and reusing heritage assets, and especially historic buildings, can contribute to reducing carbon emissions. The historic environment is also important in respect of the embodied carbon value of buildings. In particular, the contribution that the retention and reuse of old buildings makes, together with the sustainability of traditional building materials and design.

Residential

Residential development must meet 95% M4(2) and 5% M4(3) Building Regulations standards for access, the NDSS and the principles set out within the relevant SPDs (including the Future Homes and Buildings Standard where technically and financially feasible). Where assessment methods are changed or superseded, the appropriate replacement standards will be used.

All residential developments must be designed with sufficient private outdoor amenity space to promote health and wellbeing.

Major development proposals must also provide a statement, with their application, showing how their proposal will:

17. Meet all of the 12 considerations in Building for a Healthy Life. Where it is not possible to positively meet all considerations, a statement of justification must be provided to explain why it is not possible, and what mitigation measures will take place to offset this.
18. Install rainwater harvesting and greywater recycling systems in the curtilage of all new buildings.
19. Integrate the principles of passive solar design.
20. Be able to accommodate the flexible needs of occupants.

Development proposals for estate regeneration will be supported where they deliver high quality, well designed housing and improved public space.

Commercial

Major non-domestic (commercial) development proposals must meet the Building Research Establishment's Environmental Assessment Method (BREEAM) very good standard for new construction projects, using the most up-to-date new construction version of BREEAM, or equivalent LEED standard, where technically and financially feasible.

21. Applicants must submit a pre-assessment, as part of an application, demonstrating the proposed design will meet the BREEAM very good standard.
22. Applicants are also required to submit certificates once the development has been completed at post construction.

Where assessment methods are changed or superseded, the appropriate replacement standards will be used.

Sustainable construction

Development must minimise or re-use waste generated during the construction phase. This should be done by using materials and construction techniques that generate the least waste and minimise emissions. Waste should be treated as a resource to be re-used, recycled or recovered, and should only be disposed of when all other options have been explored.

On-site management of waste will be preferred, unless the activities would result in unacceptable harm through impacts on the environment, transport, neighbouring uses or that management elsewhere would have wider sustainability benefits.

Where a developer considers meeting any of the above requirements is unviable or can demonstrate that they are not suited to local circumstances, an independent Viability Assessment must be submitted with the application.

Answer

158.1 Core Documents [CD1], [CD10] and [CD14] are applicable to this response.

158.2 Policy BE3 provides multiple caveats to allow sufficient flexibility: "Residential development must meet... the NDSS and the principles set out within the relevant SPDs (including the Future Homes and Buildings Standard where technically and financially feasible); "Meet all of the 12 considerations in the Building for a Healthy Life. Where it is not possible to positively meet all considerations, a statement of justification must be provided to explain why it is not possible, and what mitigation measures will take place to offset this"; "Major non-domestic (commercial) development proposals... using the most

up-to-date new construction version of BREEAM, or equivalent LEED standard, where technically and financially feasible”; and “Where a developer considers meeting any of the above requirements is unviable or can demonstrate that they are not suited to local circumstances, an independent Viability Assessment must be submitted with the application”.

158.3 Within the adopted Borough Plan (2011-2031) and elsewhere within the Borough Plan Review, similar caveats to the ones included in Policy BE3 have been used. This approach is, therefore, an acceptable method of providing sufficient flexibility in relation to policy requirements.

158.4 Representation 106.15, to the Regulation 19 consultation on the Borough Plan Review [CD14], states that to allow sufficient flexibility, in the policy, the clause “where possible and feasible” should be inserted where specific requirements are outlined. However, as indicated above, there is flexibility in the policy if there are exceptional circumstances.

158.5 Furthermore, from the Council’s review of the Borough Plan Review policy proposals, we are not aware of any policy requirements that would unduly negatively impact the viability of residential or commercial forms of development in the borough [CD10].

158.6 Overall, the Council considers Policy BE3, as worded, to provide sufficient flexibility.

Q159. Part 1 of the policy refers to the ten characteristics of the National Design Guide and National Model Design Codes. Is this necessary or does it introduce duplication with national policy?

Policy BE3 – Sustainable design and construction

All Development proposals must be:

1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes. Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).
2. Able to evidence efficient use and protection of natural resources.
3. Able to evidence that new developments are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding 110 litres/person/day (or any future reduction stated within an updated version of the Building Regulations 2010).
4. Able to evidence that new development will maximise energy efficiency and meet the optional higher standard for Building Regulations in regard to energy use. Development should adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025, by promoting a fabric first approach, including the use of passive design principles where possible.
5. Minimise the potential for pollution of air, soil, noise and light, and in particular not contribute to unacceptable levels of air pollution.
6. Adaptable, resilient and minimise climate change impacts to achieve the nation's carbon net zero emissions target by 2050.
7. Able to reduce crime by demonstrating where the principles of Secured by Design have been incorporated into the design including consideration of wider security and defence.
8. Able to promote sustainable transport.
9. Able to promote placemaking strategies for an inclusive, safe, accessible and healthy living environment for all.

Answer

159.1 Core Document [CD1] is applicable to this response.

159.2 Repetition is evident between Policy BE3 and national policy in terms of Part 1 of the policy referring to the ten characteristics of the National Design Guide and National Model Design Codes.

159.3 Therefore, a modification is proposed, as follows:

Policy BE3 – Sustainable design and construction

REMOVE a sentence from Part 1 of Policy BE3:

~~1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes.~~ Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).

Q160. Part 3 of the policy refers to water consumption not exceeding 110 litres/person/day. Is this justified and supported by evidence? Is a lower maximum than this justified, and should this maximum be referred to as a minimum standard in order to encourage improved water efficiency standards? (110 litres/person/day is also referred to in Strategic Policy DS1 – Sustainable development).

Policy BE3 – Sustainable design and construction

All Development proposals must be:

1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes. Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).
2. Able to evidence efficient use and protection of natural resources.
3. Able to evidence that new developments are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding 110 litres/person/day (or any future reduction stated within an updated version of the Building Regulations 2010).
4. Able to evidence that new development will maximise energy efficiency and meet the optional higher standard for Building Regulations in regard to energy use. Development should adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025, by promoting a fabric first approach, including the use of passive design principles where possible.
5. Minimise the potential for pollution of air, soil, noise and light, and in particular not contribute to unacceptable levels of air pollution.
6. Adaptable, resilient and minimise climate change impacts to achieve the nation's carbon net zero emissions target by 2050.
7. Able to reduce crime by demonstrating where the principles of Secured by Design have been incorporated into the design including consideration of wider security and defence.
8. Able to promote sustainable transport.
9. Able to promote placemaking strategies for an inclusive, safe, accessible and healthy living environment for all.

Answer

160.1 Core Documents [CD1], [CD6.4] and [CD10] are applicable to this response.

160.2 All new homes already must meet the mandatory national standard set out in the Building Regulations (a maximum usage of 125 litres/person/day)⁵⁰.

However, where there is a clear local need, Local Planning Authorities can require new dwellings to meet the higher Building Regulations requirement, through their Local Plan policies. Under the optional technical housing standards, this higher standard is a maximum usage of 110 litres/person/day.

160.3 In 2021, the Environment Agency classed the Severn Trent region as Seriously Water Stressed⁵¹ meaning household demand for water is (or is likely to be) a high proportion of the current effective rainfall available to meet that demand. A reduction in water usage would help towards the sub-region becoming water neutral, whilst “delivering against the optional higher target or better, [would] provide wider benefits to the water cycle and environment as a whole. This approach [reducing water usage] is not only the most sustainable but the most appropriate direction to deliver water efficiency”⁵². The NPPF also states that “plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply...”.

160.4 In 2023, Defra’s Plan for Water⁵³ was published, promoting an integrated approach to water management as the foundation of the Plan. Whilst many of the actions contained within the Plan for Water are outside of the responsibilities of Local Planning Authorities, some are not. For example, “the plan reflects the predicted 4 billion litre per day gap between supply and demand across England and contains measures to both boost supply and reduce demand. Of interest to Local Planning Authorities is the plan to reduce demand which will address half of the gap. A key component in reducing demand for water is improving water efficiency and there is a target under the

⁵⁰ [Housing: optional technical standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/housing-optional-technical-standards)

⁵¹ [Water stressed areas – 2021 classification - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/water-stressed-areas-2021-classification)

⁵² Severn Trent Water (2023)

⁵³ [Plan for Water: our integrated plan for delivering clean and plentiful water - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/plan-for-water)

Environment Act to reduce the use of public water supply in England per head of population by 20% by 2038”.

160.5 The Plan for Water has also signalled Defra’s “intention to review the water efficiency standards for new homes, including consideration of a new national 105 l/p/d standard and 100 l/p/d where there is a clear local need”.

160.6 Furthermore, the Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA) matches the water efficiency standards proposed in the Plan for Water (2023), where there is a local need. The study also states that “non-residential development over 1000 sqm should achieve BREEAM “excellent” standard for water consumption”. The data, which the study is based on, is taken from the Environmental Improvement Plan (2023)⁵⁴ which suggests a maximum usage of 100 litres/person/day where there is a clear need, as in areas of serious water stress. Moreover, paragraph 100 of the Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA), states that Severn Trent Water provide incentives to developers to build to 100 litres/person/day by providing a discount (up to £380 clean water infrastructure charge).

160.7 It must also be noted that “there is an important link between water use and energy use, and therefore between water use and the whole-life carbon cost of developments”⁵⁵. Therefore, by reducing water use, energy bills reduce, which is a requirement of the Future Homes Standard (expected in 2025).

160.8 The higher Building Regulations standard of 110 litres/person/day was viability tested as part of Policy BE3 [CD10]. Since, further viability testing has confirmed that proposing a maximum usage of 100 litres/person/day would not impact the feasibility of future development proposals coming forward, in the borough. The Council’s viability consultants have advised “the cost assuming 100lppd would remain de minimis, as per our reporting. This level can be achieved via a fittings-based approach only (i.e. flow restrictors etc.).

⁵⁴ [Environmental Improvement Plan 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115444/Environmental-Improvement-Plan-2023.pdf)

⁵⁵ Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report August 2024 (JBA)

In our experience it is only at levels beneath 85lppd where more costly measures would be required in the form of greywater and blackwater recycling”.

- 160.9 The MIQ response to Question 16, proposes a modification to reduce the maximum water usage from 110 litres/person/day to 100 litres/person/day, in light of the above evidence justifying a further reduction in water efficiency standards and a clear local need to reduce demand for water in the borough.
- 160.10 Moreover, Part 3 of Policy BE3 utilises the term ‘not exceeding’ to indicate that the water efficiency standard proposed should be treated as a maximum usage. This approach was originally agreed with the Environment Agency in a Statement of Common Ground [CD6.4], indicating that the water efficiency standard should be a maximum value.
- 160.11 It is recognised that Policy DS1 does not utilise this term, nor does it include a caveat to ensure that any future reductions, stated within an updated version of the Building Regulations, will be applicable to the borough.
- 160.12 Therefore, a modification is proposed to clarify these matters (the proposed modification utilises 100 litres/person/day based on the modification proposed in response to MIQ Question 16 and the word ‘dwellings’ not ‘developments’ in line with a request from the Planning Inspectors):

Strategic Policy DS1 – Sustainable development

REWORD part of the second paragraph of Policy DS1:

Climate change adaptation includes building new dwellings **and development over 1000 sqm** in line with water efficient design, **ensuring a maximum usage of 100 litres/person/day (until such time this is superseded by a lower figure under Building Regulations)** as well as environmental mitigation such as sustainable urban drainage systems.

160.13 A modification is also proposed to Policy BE3 to clarify the caveat due to the Building Regulations being continuously updated (the proposed modification utilises the word 'dwellings' not 'developments' in line with a request from the Planning Inspectors):

Policy BE3 – Sustainable design and construction

REWORD Part 3 of Policy BE3:

Able to evidence that new dwellings **and development over 1000 sqm** are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding **100** litres/person/day ~~(or any future reduction stated within an updated version of the Building Regulations 2010).~~ **(until such time this is superseded by a lower figure under Building Regulations).**

160.14 Reference is also made to the previous Water Cycle Study (2017), in the Borough Plan Review, under Policy BE3. A new Water Cycle Study is now available and so modifications are proposed to update the Borough Plan Review text, to reflect this:

Policy BE3 – Sustainable design and construction

AMEND paragraph 13.32 of Policy BE3 to read:

13.32 The NPPF states that local authorities should take water supply and demand into full account in their strategies and local plans. The West Midlands Climate Change Risk Assessment and Adaptation Plan (2021-2026)¹³⁴ identifies that the Severn Trent Water region is already seriously water stressed and supply is likely to become more constrained with drier summers and an increasing population. **The Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) - Stage 1 Final Report** ~~Water Cycle Study (2017) (which is currently being updated)~~ also identifies a number of wastewater treatment works, across the sub-region, which are currently operating at capacity, or will be at some point across the plan period¹³⁵. As a result, the Council aims to help the sub-region achieve a water neutral position.

Policy BE3 – Sustainable design and construction

AMEND footnote 135:

1JBA (2024) Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) – Stage 1 Final Report.

Policy BE3 – Sustainable design and construction

AMEND paragraph 13.47, the evidence base text of Policy BE3 to read:

The evidence base related to this policy is as follows:

- **JBA (2024) Coventry and Warwickshire Sub-regional Water Cycle Study (WCS) – Stage 1 Final Report.**
- ~~AECOM (2017). Joint Warwickshire Partnership Water Cycle Study.~~
- Sustainability West Midlands (2021). Climate Change Risk Assessment and Adaptation Plan 2021-2026.
- Department for Levelling Up, Housing and Communities (2021). National Model Design Code.
- Department for Levelling Up, Housing and Communities (2021). National Design Guide.

Q161. Part 4 of the policy requires adherence to the Futures Homes and Buildings Standard prior to its introduction in 2025. Is this justified?

Policy BE3 – Sustainable design and construction

All Development proposals must be:

1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes. Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).
2. Able to evidence efficient use and protection of natural resources.
3. Able to evidence that new developments are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding 110 litres/person/day (or any future reduction stated within an updated version of the Building Regulations 2010).
4. Able to evidence that new development will maximise energy efficiency and meet the optional higher standard for Building Regulations in regard to energy use. Development should adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025, by promoting a fabric first approach, including the use of passive design principles where possible.
5. Minimise the potential for pollution of air, soil, noise and light, and in particular not contribute to unacceptable levels of air pollution.
6. Adaptable, resilient and minimise climate change impacts to achieve the nation's carbon net zero emissions target by 2050.
7. Able to reduce crime by demonstrating where the principles of Secured by Design have been incorporated into the design including consideration of wider security and defence.
8. Able to promote sustainable transport.
9. Able to promote placemaking strategies for an inclusive, safe, accessible and healthy living environment for all.

Answer

161.1 Core Documents [CD1] and [CD14] are applicable to this response.

161.2 In 2025, it will become mandatory to comply with the Future Homes and Buildings Standard. "Its aim is to ensure that new homes built from 2025 will produce 75-80% less carbon emissions than homes built under current

building regulations”⁵⁶, playing a crucial role in the UK’s efforts to become net zero.

161.3 Representation 16.22 of the Regulation 19 consultation on the Borough Plan Review [CD14], argues that requiring “development to adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025... is unreasonable and unjustified”.

161.4 The introduction of the Environment Act 2021, emerging legislation, carbon neutrality by 2050 and climate change predictions, has led the Council to consider the higher Building Regulations for energy efficiency in depth. In turn, the Council has decided to include the Future Homes and Buildings Standard in the Borough Plan Review, through Policy BE3, from its adoption, rather than waiting for the new Building Regulations to come into force (expected in 2025). This is to promote a fabric first approach and passive design principles and to invoke the spirit of the Environment Act 2021 as early as possible.

161.5 Within the borough, household earnings are lower than the Warwickshire average which contributes to poverty and deprivation⁵⁷. Integrating passive solar design, passive house concepts and energy efficiency into new developments will have significant economic benefits for people buying or renting new properties in the borough. Furthermore, the Council declared a climate emergency on 4th December 2019. Not only would introducing these standards result in better social conditions, but the standards would improve the environmental conditions and carbon emissions, within the borough.

161.6 When new Building Regulations are expected to come into force, with significant changes planned, developers are likely to submit planning applications ahead of their introduction, to avoid having to meet the mandatory requirements. As a number of development sites are likely to come forward in the borough, prior to the new Building Regulations coming into force, the Council considers it prudent to prevent this happening by including the requirements as early as possible. This will ensure that as many dwellings

⁵⁶ [What is the 2025 Future Homes Standard and how will it impact residential real estate? | CBRE UK](#)

⁵⁷ [Warwickshire Insights - InstantAtlas Warwickshire](#)

as possible, going forward, in the borough, meet the lower energy efficiency requirements.

161.7 The Future Homes and Buildings Standard (higher Building Regulations) are expected to come into force in 2025. There may be a potential small gap following the adoption of the Borough Plan Review but prior to the Building Regulations coming into force. This will be minimal and does not undermine the need for the Future Homes and Building Standard's requirements to be introduced, within the borough, as soon as possible.

161.8 Overall, the Borough Plan Review's aim is for "people in the borough [to] live in healthy, safe and inclusive communities" and for the borough to "have addressed the climate change emergency as far as possible through the planning process". In turn, the Council considers it justified for Part 4 of the Policy BE3 to require adherence to the Futures Homes and Buildings Standard prior to its introduction in 2025.

Q162. Is the Heritage assets section of the policy guidance or policy? How would a proposal demonstrate compliance with it?

Policy BE3 – Sustainable design and construction

Heritage assets

Heritage assets can be a valuable aid to achieving sustainable development, in both climate change mitigation and adaption. For example, retaining, repairing, refurbishing, retrofitting and reusing heritage assets, and especially historic buildings, can contribute to reducing carbon emissions. The historic environment is also important in respect of the embodied carbon value of buildings. In particular, the contribution that the retention and reuse of old buildings makes, together with the sustainability of traditional building materials and design.

Answer

162.1 Core Document [CD1] is applicable to this response.

162.2 The heritage assets section of Policy BE3 was first introduced in the Regulation 19 version of the Borough Plan Review, after Historic England provided representations to the Preferred Options consultation, on Policy BE3 (representation reference 8.13)⁵⁸. As a result of Historic England's comments, the Council suggested adding a paragraph regarding heritage assets, to the policy text. However, the heritage assets section of Policy BE3 is guidance, not policy, and therefore should be moved to the supporting text.

162.3 The heritage assets text does not contain any policy requirements that would need to be complied with and therefore, a proposal would not need to demonstrate compliance with this text.

162.4 A modification is proposed to move the heritage assets section of Policy BE3 to the policy's supporting text:

⁵⁸ [preferred-options-responses-and-officer-comments-2023-](https://nuneatonandbedworth.gov.uk/preferred-options-responses-and-officer-comments-2023/) (nuneatonandbedworth.gov.uk)

Policy BE3 – Sustainable design and construction

REMOVE the following sub-heading and paragraph from Policy BE3:

~~Heritage assets~~

~~Heritage assets can be a valuable aid to achieving sustainable development, in both climate change mitigation and adaption. For example, retaining, repairing, refurbishing, retrofitting and reusing heritage assets, and especially historic buildings, can contribute to reducing carbon emissions. The historic environment is also important in respect of the embodied carbon value of buildings. In particular, the contribution that the retention and reuse of old buildings makes, together with the sustainability of traditional building materials and design.~~

ADD the following sub-heading and paragraph to the supporting text of Policy BE3:

Heritage assets

Heritage assets can be a valuable aid to achieving sustainable development, in both climate change mitigation and adaption. For example, retaining, repairing, refurbishing, retrofitting and reusing heritage assets, and especially historic buildings, can contribute to reducing carbon emissions. The historic environment is also important in respect of the embodied carbon value of buildings. In particular, the contribution that the retention and reuse of old buildings makes, together with the sustainability of traditional building materials and design.

Q163. Is it necessary and justified to refer to 95% of residential development meeting M4(2) and 5% meeting M4(3) Building regulations standards for access? Is this requirement a duplication of the requirement in policies SA1, H5 and to some extent policies H1 and H2?

Policy BE3 – Sustainable design and construction

Residential

Residential development must meet 95% M4(2) and 5% M4(3) Building Regulations standards for access, the NDSS and the principles set out within the relevant SPDs (including the Future Homes and Buildings Standard where technically and financially feasible). Where assessment methods are changed or superseded, the appropriate replacement standards will be used.

All residential developments must be designed with sufficient private outdoor amenity space to promote health and wellbeing.

Major development proposals must also provide a statement, with their application, showing how their proposal will:

17. Meet all of the 12 considerations in Building for a Healthy Life. Where it is not possible to positively meet all considerations, a statement of justification must be provided to explain why it is not possible, and what mitigation measures will take place to offset this.
18. Install rainwater harvesting and greywater recycling systems in the curtilage of all new buildings.
19. Integrate the principles of passive solar design.
20. Be able to accommodate the flexible needs of occupants.

Development proposals for estate regeneration will be supported where they deliver high quality, well designed housing and improved public space.

Answer

163.1 Core Document [CD1] is applicable to this response.

163.2 Policy H5 is the lead policy regarding accessible and adaptable homes and the requirement for 95% of all new major residential dwellings to be M4(2) compliant and 5% to be M4(3) compliant. The Council considers the

requirements necessary and justified in terms of access and other aspects of compliance. Please refer to MIQ Question 103 for further detail.

163.3 Duplication between Policies BE3, H5 and SA1 is present within the Borough Plan Review. To avoid repetition, two modifications are proposed to remove reference to optional Building Regulations standards M4(2) and M4(3) in Policies SA1 and BE3. These proposed modifications are outlined in answer to MIQ Question 46.

163.4 In terms of Policy H1, it is not considered that the reference to optional Building Regulations standard M4(3) is unnecessarily repeated. Policy H1 requires M4(3) standards for 'Homes for older people' and 'other specialised housing' as these are the demographics that are most likely to need this higher Building Regulation requirement.

163.5 In terms of Policy H2, it is not considered that the reference to optional Building Regulations standards M4(2) and M4(3) are unnecessarily repeated, as it ensures that the requirements are considered in terms of both market and affordable housing development, in the borough.

Q164. Is it necessary and justified for the policy to require compliance with the NDSS?

Policy BE3 – Sustainable design and construction

Residential

Residential development must meet 95% M4(2) and 5% M4(3) Building Regulations standards for access, the NDSS and the principles set out within the relevant SPDs (including the Future Homes and Buildings Standard where technically and financially feasible). Where assessment methods are changed or superseded, the appropriate replacement standards will be used.

All residential developments must be designed with sufficient private outdoor amenity space to promote health and wellbeing.

Major development proposals must also provide a statement, with their application, showing how their proposal will:

21. Meet all of the 12 considerations in Building for a Healthy Life. Where it is not possible to positively meet all considerations, a statement of justification must be provided to explain why it is not possible, and what mitigation measures will take place to offset this.
22. Install rainwater harvesting and greywater recycling systems in the curtilage of all new buildings.
23. Integrate the principles of passive solar design.
24. Be able to accommodate the flexible needs of occupants.

Development proposals for estate regeneration will be supported where they deliver high quality, well designed housing and improved public space.

Answer

164.1 Core Document [CD1] is applicable to this response.

164.2 Policy H4 is the lead policy regarding the NDSS. The Council considers the requirement for all dwellings to comply with the NDSS necessary and justified. Please refer to MIQ Question 99 for further detail.

164.3 Duplication between Policies H4 and BE3 is present within the Borough Plan Review. To avoid repetition, a modification is proposed to remove reference to

the NDSS in Policy BE3. This proposed modification is outlined in answer to MIQ Question 46.

Q165. Is it necessary and justified for major development proposals to meet all of the 12 considerations in Building for a Healthy Life (part 17 of the policy)? Is it clear what would be required to meet this policy requirement?

Policy BE3 – Sustainable design and construction

All Development proposals must be:

1. Designed to a high standard and meet the ten characteristics of the National Design Guide and National Model Design Codes. Designed to meet the requirements specified in any relevant extant Concept Plan SPD and the Sustainable Design and Construction SPD (2020).
2. Able to evidence efficient use and protection of natural resources.
3. Able to evidence that new developments are water efficient, incorporating water efficiency and re-use measures and that the estimated consumption of wholesome water per dwelling is calculated in accordance with the methodology in the water efficiency calculator, not exceeding 110 litres/person/day (or any future reduction stated within an updated version of the Building Regulations 2010).
4. Able to evidence that new development will maximise energy efficiency and meet the optional higher standard for Building Regulations in regard to energy use. Development should adhere to the Future Homes and Buildings Standard, prior to its introduction in 2025, by promoting a fabric first approach, including the use of passive design principles where possible.
5. Minimise the potential for pollution of air, soil, noise and light, and in particular not contribute to unacceptable levels of air pollution.
6. Adaptable, resilient and minimise climate change impacts to achieve the nation's carbon net zero emissions target by 2050.
7. Able to reduce crime by demonstrating where the principles of Secured by Design have been incorporated into the design including consideration of wider security and defence.
8. Able to promote sustainable transport.
9. Able to promote placemaking strategies for an inclusive, safe, accessible and healthy living environment for all.

Answer

165.1 Core Documents [CD1] and [CD14] are applicable to this response.

165.2 Part 17 of Policy BE3 reads, in full: "Meet all of the 12 considerations in Building for a Healthy Life. Where it is not possible to positively meet all

considerations, a statement of justification must be provided to explain why it is not possible, and what mitigation measures will take place to offset this”.

165.3 The second sentence of Part 17 provides a caveat to ensure flexibility in the policy requirement, if major development proposals cannot meet all 12 considerations in Building for a Healthy Life (previously known as Building for Life 12).

165.4 Part 17 of Policy BE3 in the Borough Plan Review is a continuation of Part 1, under the sub-heading ‘Residential’ in Policy BE3 of the adopted Borough Plan (2011-2031). This policy requirement has largely been successful since the Borough Plan was adopted (2011-2031) and has been implemented in relation to a large number of major planning applications.

165.5 The Home Builders Federation is “supportive of the use of ‘Building for Healthy Life’ as best practice guidance, [but] its use should remain voluntary rather than becoming a mandatory policy requirement” as it is “a toolkit for considering design and thinking about the qualities of successful places” rather than a standard (representation 16.24 to the Regulation 19 consultation on the Borough Plan Review [CD14]).

165.6 The Building for a Healthy Life document uses the ‘red, amber, green’ scoring system. Applicants should aim to achieve a green score against all 12 Questions. However, there may be circumstances where local context means it is not possible to achieve the maximum number of schools, for example, and, in these cases, developers should endeavour to achieve the highest possible outcome.

165.7 The Council considers it necessary and justified for major development proposals to meet all 12 considerations in Building for a Healthy Life. However, two modifications are proposed to clarify what would be required to meet this policy requirement and to provide easy access to the document:

Policy BE3 – Sustainable design and construction

ADD to the supporting text of Policy BE3:

Building for a Healthy Life

The Building for a Healthy Life document uses the ‘red, amber, green’ scoring system. Applicants should aim to achieve a green score against all 12 questions. However, there may be circumstances where local context means it is not possible to achieve the maximum number of schools, for example. In these cases, developers should endeavour to achieve the highest possible outcome.

Policy BE3 – Sustainable design and construction

ADD a footnote hyperlinking to the Building for a Healthy Life document (Part 17 of Policy BE3).

Q166. Does the last paragraph of the policy just refer to sustainable construction or to the wider policy? Is it necessary and justified to subject a viability assessment where a developer considers that meeting the requirements is not suitable to local circumstances?

Policy BE3 – Sustainable design and construction

Sustainable construction

Development must minimise or re-use waste generated during the construction phase. This should be done by using materials and construction techniques that generate the least waste and minimise emissions. Waste should be treated as a resource to be re-used, recycled or recovered, and should only be disposed of when all other options have been explored.

On-site management of waste will be preferred, unless the activities would result in unacceptable harm through impacts on the environment, transport, neighbouring uses or that management elsewhere would have wider sustainability benefits.

Where a developer considers meeting any of the above requirements is unviable or can demonstrate that they are not suited to local circumstances, an independent Viability Assessment must be submitted with the application.

Answer

166.1 Core Document [CD1] is applicable to this response.

166.2 The last paragraph of Policy BE3 refers to the wider policy, not just to sustainable construction and therefore, requires a sub-heading to define this.

166.3 The Council consider it necessary and justified to subject a viability assessment where a developer considers that meeting the requirements is not suitable to local circumstances. However, the Council recognises that a viability assessment is not always the only appropriate approach in terms of considering the feasibility of a development proposal, taking into consideration the requirements of Policy BE3.

166.4 A modification is proposed to add a sub-heading and to provide some flexibility in the policy's approach:

Policy BE3 – Sustainable design and construction

ADD a sub-heading and REWORD the final paragraph of Policy BE3 to read:

In the event that the policy requirements cannot be met

Where a developer considers meeting any of the above requirements is unviable or can demonstrate that they are not suited to local circumstances, **supporting evidence must be provided, with any planning application, to clearly demonstrate this.** ~~a~~**An independent Viability Assessment is likely to be the most appropriate assessment to demonstrate this.** ~~must be submitted with the application.~~

Policy BE4 – Valuing and conserving our historic environment

Q167. The policy requires proposals to sustain and enhance heritage assets; to conserve and enhance heritage assets and to make a positive contribution to the character, appearance and significance of it. Is this approach sufficiently flexible and consistent with national policy and legislation?

Policy BE4 – Valuing and conserving our historic environment

Development proposals which sustain and enhance the Borough's heritage assets including listed buildings, conservation areas (Appendix D), scheduled monuments (Appendix I), registered parks and gardens, archaeology, historic landscapes and settings of townscapes including canals, will be approved.

Answer

167.1 Core Documents [CD1], [CD6.5] and [CD14] are most relevant to this response.

167.2 This has largely been answered in the Council's response to Question 47. The Council considers this approach to be sufficiently flexible and consistent with national policy and legislation. Indeed, the response from Heritage England to the Regulation 19 stage [CD14] (response reference 15.14) specifically states that they consider the wording now more aligned with the NPPF. Likewise, as set out in the Statement of Common Ground [CD6.5] with Historic England they are supportive of the policy requirements to conserve and enhance the historic environment.

167.3 The policy approach is considered sufficiently flexible and it seeks to set out the parameters for which development proposals, affecting the Borough's heritage assets, will be approved. There is flexibility within the last paragraph

of the policy, where robust justification can be made in not meeting aspects of the policy.

- 167.4 Paragraph 189 of the NPPF states that heritage assets should be conserved, sustained and enhanced. Indeed, the title of chapter 16 of the NPPF is 'Conserving and enhancing the historic environment'.
- 167.5 Paragraph 190a states that local plans should consider the desirability of sustaining and enhancing the significance of heritage assets. This covers the sustaining aspect of the policy, as well as the enhancement requirement within the policy. Part 190c states that local plans should consider the desirability of new development making a positive contribution to local character. Finally, paragraph 190d states that local plans should consider opportunities to draw on the contribution made by the historic environment to the character of a place. Policy BE4 sets out a positive strategy for development making a positive contribution to local character drawing on the contribution made by the historic environment to the character of a place.
- 167.6 Similarly, the NPPF 197c states that local planning authorities need to consider the desirability of new development making a positive contribution to heritage assets.
- 167.7 Paragraph 195 of the NPPF states local planning authorities should identify the significance of any heritage asset which may be affected by a proposal and should avoid any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 206 of the NPPF states that proposals which preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. Clearly this reference in the NPPF, aiming to better reveal the significance of heritage assets, is itself a positive strategy, which is endorsed within Policy BE4.
- 167.8 In terms of consistency with legislation, with specific reference to local planning authorities, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes clear that the general duty in relation to conservation areas in the exercise of planning functions is that special attention shall be paid to the desirability of preserving or enhancing the

character or appearance of that area. This further justifies the approach taken in the policy.

167.9 In conclusion, it is considered that the Policy requirement to sustain, conserve and enhance heritage assets and to make a positive contribution to the character, appearance and significance of the asset is consistent with national policy and legislation but that it could be amended to provide some flexibility to read:

Policy BE4 – Valuing and conserving our historic environment

ADD within first paragraph of policy to read:

Development proposals **where possible should** ~~which~~ sustain and enhance the Borough's heritage assets including listed buildings, conservation areas (Appendix D), scheduled monuments (Appendix I), registered parks and gardens, archaeology, historic landscapes and settings of townscapes including canals. ~~will be approved.~~

Q168. Is the approach taken to non-designated assets consistent with national policy? In particular, having regard to paragraph 203 of the Framework should the harm be weighed against public benefits in the same way as for designated heritage assets?

The relevant paragraph of the policy states

Policy BE4 – Valuing and conserving our historic environment

Development affecting a designated or non-designated heritage asset and its setting will be expected to make a positive contribution to its character, appearance and significance.

Answer

168.1 Core Document [CD1] is applicable to this response.

168.2 The approach taken to non-designated heritage assets is the same as that within the adopted Borough Plan (2011-2031), which was found sound following its examination. Paragraph 203 of the NPPF (Sept 2023) states that:

“In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

The Council considers that weighing the harm against the public benefits is an appropriate mechanism to make a balanced judgement in this sense.

168.3 Whilst the balanced judgement is assessed in the same way as for designated heritage assets, this assessment is preceded by the proviso that this is on the basis that greater weight will be given to assets of higher importance. In light of this, whilst the mechanism for balancing this judgement is the same, the weighting is different depending on the significance of the heritage asset. This reflects the approach taken to designated heritage assets at paragraph 199 of the NPPF, which states that in relation to the weight of heritage assets, the more important the asset, the greater the weight should be. The Council believe this is an appropriate way to similarly assess non-designated heritage assets.

Q169. Should the second paragraph under the 'conserve the asset and its setting' part of the policy also refer to the removal or destruction of scheduled monuments as well as those considered to be of equivalent significance?

The relevant parts of the policy states:

Policy BE4 – Valuing and conserving our historic environment

Development affecting a designated or non-designated heritage asset and its setting will be expected to make a positive contribution to its character, appearance and significance. To conserve and enhance the Borough's heritage assets, development proposals must:

2. Conserve the asset and its setting

Great weight will be given to the conservation of the Borough's heritage assets and their settings, with greater weight being given to assets of higher importance. Any harm to the significance of a designated or non-designated heritage asset must be justified. Proposals causing harm will be weighed against the public benefits of the proposal in the following ways:

- Whether it has been demonstrated that all reasonable efforts have been made to sustain the existing use, find new uses or mitigate the extent of the harm to the significance of the asset.
- Whether the works proposed are the minimum required to secure the long term use of the asset.

Scheduled monuments and other non-designated archaeological sites of equivalent importance should be preserved in-situ. Development proposals that would result in the removal or destruction of remains of archaeological interest that are considered to be of equivalent significance to a scheduled monument will not normally be permitted, as substantial harm or loss should be wholly exceptional.

Answer

169.1 Core Document [CD1] is applicable to this response.

169.2 This is largely answered in the Council's response to Question 168 and the reference to archaeological sites of equivalent importance was considered sound in the adopted Borough Plan (2011-2031). Further to this, paragraph 190 of the NPPF states that local plans should set out a positive strategy for

the conservation and enjoyment of the historic environment, including the significance of heritage assets.

169.3 Paragraph 200 of the NPPF refers to the harm or loss of a designated heritage asset and footnote {68} for this paragraph refers to:

“Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.”

169.4 Further to this, there may be non-designated archaeological sites as yet undiscovered, which through assessment, may be worthy of designation as scheduled monuments. Therefore, this requirement ensures the correct level of protection is not only offered to significant assets which are already known, but to those yet to be discovered.

Q170. Is the approach to dealing with harm to other important archaeological remains justified and consistent with national policy?

The relevant part of the policy states:

Policy BE4 – Valuing and conserving our historic environment

Development that would adversely affect other important archaeological remains will only be acceptable:

- the benefits of development outweigh the harm to the remains and the value of retaining them in situ.
- the degree of disturbance has been minimised.
- satisfactory provision is made for the evaluation, excavation, recording and interpretation of the remains before commencement of the development.

Where there are likely to be valuable archaeological remains, archaeological evaluation, which may include a geophysical survey and/or trial trenching, is likely to be required prior to the determination of any planning application.

Answer

170.1 Core Documents [CD1] and [CD14] are most relevant to this response.

170.2 This Question has again largely been answered in the previous three Answers. As stated previously, paragraph 190 of the NPPF states that “local plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including considering the desirability of sustaining and enhancing the significance of heritage assets”. Therefore, the approach taken is proposing that dealing with harm to other important archaeological remains, would be meeting this requirement within the NPPF.

170.3 As stated in the Council’s response to Question 168, paragraph 199 of the NPPF seeks to consider the impact of a proposed development on the significance of a heritage asset, the more important the asset, the greater the weight should be given to the asset’s conservation. This is irrespective of harm. As per paragraph 190 of the NPPF, these measures are also

appropriate for non-designated heritage assets, albeit with the weight of these assets clearly not being as significant as those of designated heritage assets.

170.4 Paragraph 200 of the NPPF states that any harm to heritage assets (in this case - designated assets) should require clear and convincing justification. Again, with the requirement to create a positive strategy for the conservation of the historic environment through the local plan process. It is considered that this assessment is useful for interpreting development proposals for non-designated heritage assets as well. This is of course caveating that non-designated heritage assets do not possess the same significance as designated heritage assets.

170.5 The NPPF also sets out at paragraph 201 that where a:

“proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss”.

The paragraph provides exceptions criteria ‘a’ to ‘d’. However, it is considered that Policy NE4 could be made clearer as recommended below, but that the loss would be as a last resort.

170.6 The text within the Borough Plan Review sets out where it is considered that development is unacceptable (where it would adversely affect non-designated archaeological remains). Therefore we consider this policy to be in line with National Policy for designated heritage assets.

170.7 The archaeological wording was provided by Historic England in February 2022 in discussion prior to the publication of the Preferred Options. Their response stated:

“Archaeology –
specifically in relation to development that has the potential to affect heritage assets of archaeological interest we welcome the requirement in the policy for a desk-based assessment and field evaluation, and we suggest adding that these must determine the significance of the

archaeological remains and assess the implications of the development on those remains.

In relation to non-designated archaeology we would recommend including the following in a heritage policy:

- make clear that development proposals that would result in the removal or destruction of remains of archaeological interest that are considered to be of equivalent significance to a scheduled monument will not normally be permitted, as substantial harm or loss should be wholly exceptional;
- explain that development that would adversely affect other important archaeological remains will only be acceptable where:
 - the benefits of development outweigh the harm to the remains and the value of retaining them in situ;
 - the degree of disturbance has been minimised; and
 - satisfactory provision is made for the evaluation, excavation, recording and interpretation of the remains before commencement of the development.

We also suggest referencing that planning conditions will be utilised to ensure the continued protection of important archaeological features in situ, where development can take place.”

170.8 In terms of archaeological remains, the requirement prior to determination, was objected to by Richborough during the Regulation 19 responses [CD14] (response reference 110.9). However, the requirement was provided during discussions with Warwickshire County Council Archaeological Information and Advice team to the Preferred Options (response reference 22.1) and with discussions with Historic England, where experience had shown them that in cases where Outline consent had been granted prior to trenching, that by approving parameter plans where development is to take place, they could not then retrospectively require trenching. This is the approach now been taken by Warwickshire County Council Archaeological Information and Advice team on planning applications which will often require trenching prior to the approval of Outline consent.

170.9 By including the requirements for trenching, within the Policy, it provides guidance to developers of what should be expected and to an extent, can then drive Parameter Plans and not provide delays during the application process. The wording states that it is “likely to be required” where there is likely to be valuable archaeological remains and this is reiterated in the next sentence of the policy that advises developers to speak to Warwickshire County Council Archaeological Information and Advice for advice prior to the submission of any application.

170.10 In conclusion the paragraph could be made clearer as recommended below:

Policy BE4 – Valuing and conserving our historic environment

AMEND and ADD to paragraph of BE4 to read:

Development that would adversely affect other important **heritage assets** **including** archaeological remains will only be acceptable **where it is clearly demonstrated and there be wholly exceptional circumstances that:**

- the benefits of development outweigh the harm to the remains and the value of retaining them in situ.
- the degree of disturbance/**loss** has been minimised.
- satisfactory provision is made for the evaluation, excavation, recording and interpretation of the remains before commencement of the development.

Where there are likely to be valuable archaeological remains, archaeological evaluation, which may include a geophysical survey and/or trial trenching, is likely to be required prior to the determination of any planning application.

Q171. Is it necessary for all heritage assets and/or their settings to be lost to be recorded and analysed? Is this consistent with paragraph 205 of the Framework?

The relevant part of the policy states:

Policy BE4 – Valuing and conserving our historic environment

Where harm to any heritage assets can be fully justified, and development would result in the partial or total loss of the asset and/or its setting, the applicant will be required to secure a programme of recording and analysis of that asset, archaeological excavation where relevant, and ensure the publication of that record to an appropriate standard.

171.1 Core Document [CD1] is applicable to this response.

171.2 The necessity for this policy requirement has already been found sound, as the text is the same as that within the adopted Borough Plan (2011-2031) and was considered through the adopted Plan's examination.

171.3 It is considered that all heritage assets should be recorded and analysed if there is to be a total or partial loss. Paragraph 205 of the NPPF states that:

“Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible {footnote 69}. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.”

The footnote states:

“{69} Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.”

171.4 In relation to the requirement for heritage assets settings to be recorded and analysed, if there is to be a loss, it is consistent with paragraph 205 above.

However, as paragraph 205 states that the recording and analysis should be proportionate to the impact of the loss, it is suggested that the policy wording for BE4 be amended as follows:

Policy BE4 – Valuing and conserving our historic environment

ADD to Policy BE4:

Where harm to any heritage assets can be fully justified, and development would result in the partial or total loss of the asset and/or its setting, the applicant will be required to secure a programme of recording and analysis of that asset, archaeological excavation where relevant, and ensure the publication of that record to an appropriate standard. **The recording should be proportionate with the asset and therefore it is strongly recommended that pre application discussions are sought with WCC Archaeological Information and Advice where an application is likely to result in a loss or partial loss of an asset.**

Q172. What is the justification for the last paragraph of the policy regarding change of use in conservation areas?

The relevant paragraph of the policy states:

Policy BE4 – Valuing and conserving our historic environment

Change of use in Nuneaton and Bedworth Town Centre Conservation Areas
Where a change of use is proposed in Nuneaton or Bedworth Town Centre Conservation Areas from class E to class C3 at ground floor, robust evidence and justification of the necessity for a change of use will need to be provided to support such an application.

172.1 Core Document [CD1] is applicable to this response.

172.2 The justification for this is to clarify the Council's position on Class M of the General Permitted Development (England) Order 2015 which permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

172.3 As part of these permitted development rights, development under Class MA is permitted subject to the condition that before beginning development under Class MA, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the Authority will be required where the building is located in a conservation area.

172.4 However, the criteria to consider under these permitted development rights are purely (a) transport and highways impacts of the development, (b) contamination risks in relation to the building, (c) flooding risks in relation to the building, (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use, (e) the design or external appearance of the building, and (f) the provision of adequate natural light in all

habitable rooms of the dwellinghouses. The legislation does not directly require the impact to consider the appearance and setting within the context of the Conservation Area.

172.5 The necessity for this requirement is that the Nuneaton Town Centre Conservation Area Appraisal and Management Plan⁵⁹ sets out that commercial activity is a key characteristic of the area, and robust evidence and justification would need to be provided to support the change of use to residential to the ground floor, as this could impact on the characteristics of the Conservation Area.

172.6 Similarly, the Bedworth Town Centre Conservation Area Appraisal and Management Plan⁶⁰ sets out that in determining applications regarding development to a historic shop front or parts of one, there will be a presumption in favour of retention. Also any residential development may cease the commercial appearance of the historic shop front by obscuring the internal space of the premises for privacy in the form of blinds/netting and thus impacting the setting of the Conservation Area.

172.7 By using this clause, within the policy, it means that weight can be given to the Appraisal Documents as it makes clear what information is required.

⁵⁹ [Conservation areas | Conservation, heritage and trees | Nuneaton and Bedworth Borough Council](#)

⁶⁰ [Conservation areas | Conservation, heritage and trees | Nuneaton and Bedworth Borough Council](#)