

Examination of the North Hertfordshire Local Plan (2011-2031)
Examination hearing sessions
Statement of North Hertfordshire District Council

Matter 28: Biodiversity

a) *Are modifications to Policies SP12 and NEx (and the paragraphs supporting it) necessary for soundness?*

1. Yes. The original Matter 19 hearing session on the natural environment was held on Monday 27 November 2017. The Inspector's list of published actions arising from this session required the Council to amend policies SP11 and NE6. This included making clear that different levels of protection will be afforded to sites depending on their status ([ED55](#), p.1).
2. The Council's response outlined that these actions were addressed by a number of proposed Main Modifications and a general re-ordering of this section of the document to reflect discussion at that hearing session ([ED156](#), pp.1-2). The Proposed Main Modifications, issued in November 2018, included proposed amendments to Policy SP12 and a new Policy 'NEx' on Biodiversity and associated supporting text (MM050 and MM166 respectively).
3. Paragraph 14 of the Inspector's 9 August Letter ([ED168](#), p.3) expressed concern over the consistency of MM166 with national policy. As set out in that letter, Paragraph 113 of the 2012 NPPF requires that protection of international, national and locally designated sites is commensurate with their status.

b) *Are the modifications proposed effective, justified and consistent with national policy?*

4. Yes. Paragraph 14.4 of the Council's response to the Inspector's 9 August 2019 letter explains that the further changes are proposed to address the Inspector's concerns ([ED170](#), p.24).
5. These proposed changes are set out in the accompanying schedule ([ED176](#), see revised proposed MM050 and MM166). In general terms, these changes seek to ensure consistency with national policy by better reflecting the requirements of NPPF Paragraph 113 in the policies of the Local Plan.
6. A plain reading of the relevant proposed Main Modifications did not make sufficiently clear that differing levels of protection may be appropriate depending on the nature of the asset(s) affected. In particular, MM166 required the criteria of Policy NEx to be applied equally to "*...non-designated sites that include important habitats and*

species...". The interrelationship between Policy SP12 and Policy 'NEx' was also considered to be unclear.

7. Specifically, the further modifications propose to amend the hierarchy in Policy SP12. This would now include important non-designated sites beneath internationally, nationally and locally designated sites. This proposed modification is for effectiveness to allow clearer interpretation of Policy NEx.
8. Modifications proposed to Policy NEx and its supporting text include, but are not limited to (in the order the relevant further changes appear in MM166):
 - Ensuring that NEx is appropriately framed so all the following criteria are applied having regard to the status of any affected site(s) or feature(s) in line with the proposed amended hierarchy in SP12 and national policy;
 - Amending criterion c to require consideration of construction impacts in the round and making criterion d applicable to any buffers;
 - Removing the reference to non-designated sites beneath the listed criteria as these are now captured in the overall framing of the policy;
 - Identifying, in the supporting text, ways in which non-designated sites might be identified;
 - Clarifying that the approaches to avoidance, mitigation and compensation should be commensurate with the hierarchy in SP12;
 - Providing an evidential basis to ensure the reference to 12m buffers of complimentary habitat is justified; and
 - Making references to biodiversity impact tools more generic. This recognises that approaches are likely to evolve over the lifetime of the Plan. This change has particular regard to the prospective provisions of the Environment Bill (or any equivalent or successor) and the widely-trailed proposals relating to 'biodiversity net gain'.