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**Nottingham City Council**

**Response to Matter 1**



**Nottingham  
City Council**

**Legal and Procedural Requirements**

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### **Issue 1: Duty to Co-operate**

**Q1. *Has the Duty to Co-operate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with having regard to the advice contained in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG)?***

1.1 Yes, the Duty to Cooperate has been comprehensively met, as set out in the Council's Statement of Compliance with the Duty to Co-operate (March 2018) ([LAPP-CD-REG-20](#)). This describes how every Duty to Cooperate body has been engaged in the plan preparation process.

1.2 Of particular relevance is the Greater Nottingham Joint Planning Advisory Board (JPAB - see Section 4 of the Council's Statement of Compliance) which has the role of discharging the Duty to Cooperate embodied within its terms of reference ([LAPP.NCC 23](#)). Membership of JPAB includes political representation from all the authorities making up Greater Nottingham (Statement of Compliance, Section 3), and several of the statutory agencies (also Duty to Cooperate bodies) are invited to JPAB meetings.

1.3 Section 5 of the Statement of Compliance takes each Duty to Cooperate body in turn, and describes their engagement with the LAPP preparation process. Where there have been issues that could constitute strategic matters, the Statement of Compliance describes how these have been resolved. It concludes that there are no outstanding strategic issues between Nottingham City Council and the Duty to Cooperate bodies, as evidenced by the lack of outstanding representations to the LAPP.

1.4 In recognition of the mature partnership working across Greater Nottingham, JPAB has been invited to be part of the Government's pilot programme for Statements of Common Ground, as required by the 2018 NPPF. A draft Statement has been prepared ([LAPP.NCC 24](#)), and submitted to the Ministry of Housing, Communities and Local Government for their consideration.

**Q2. *Does the Council's Statement of Compliance with the Duty to Co-operate (March 2018) [[LAPP-CD-REG-20](#)] demonstrate that the Duty to Co-operate has been met?***

1.5 Yes. See response to Issue 1, question 1, above.

### **Issue 2: Local Development Scheme**

**Q1. *Has the Plan been prepared in accordance with the Local Development Scheme (LDS) (March 2018) [[LAPP-CD-REG-19](#)], including in terms of timing and content?***

1.6 This is documented in the Submission Version Legal Compliance Checklist ([LAPP-CD-BACK-18](#)). The Local Development Scheme (LDS) ([LAPP-CD-REG-19](#)) was revised and approved by the Portfolio Holder for Planning, Housing and Heritage on 19th March 2018. The LDS includes the programme for the preparation of the LAPP, which has been submitted for examination in accordance with the LDS. The Examination Hearing sessions that were scheduled to take place in September of 2018 under the provisional timetable have now been delayed until

November/December 2018. This is due to the requirement for new Habitat Regulations Assessment work in the light of recent case law. A revised LDS is therefore to be prepared prior to the examination hearing sessions in order to ensure it remains up to date.

**Q2. What is the scope of the Plan?**

1.7 The LDS ([LAPP-CD-REG-19](#)) sets out the scope and content of the LAPP comprising of a suite of development management policies and site allocations to cover the whole City. The Submission Version Soundness Self-Assessment Check List, April 2018 ([LAPP-CD-BACK-18](#)) provides further information.

**Q3. Having regard to the ACS and the Council's intentions, as set out in the LDS, are there any obvious omissions, in terms of policy guidance, from the submitted Plan?**

1.8 No. The LAPP was scoped against the provisions and content of the 2012 NPPF, ACS and the results from the Nottingham City Local Planning Document Issues and Options Consultation Document ([LAPP-NONSTAT-01](#)) to ensure complete policy coverage.

**Issue 3: Public Consultation**

**Q1. Has public consultation been carried out in accordance with the Council's Statement of Community Involvement and the requirements of the 2004 Act and the 2012 Regulations?**

1.9 Yes. The Plan has been prepared in accordance with the Council's Statement of Community Involvement June 2007 ([LAPP-CD-REG-17](#)), Statement of Community Involvement Technical Addendum, January 2010 ([LAPP-CD-REG-18](#)) and the 2004 Planning and Compulsory Purchase Act and 2012 Regulations, as set out in the Legal Compliance Checklist (LAPP-CD-BACK-18).

1.10 The Council has consulted with statutory consultees, non-statutory consultees and the local community at the various formal and informal consultation stages. A summary of the consultation undertaken is detailed within the Report of Consultation for the LAPP Revised Publication Version, (Regulation 22 Statement – Part 2) , March 2018 ([LAPP-CD-REG-15](#))

**Q2. Were representations adequately taken into account?**

1.11 Yes. The Council considers that representations have adequately been taken into account. Preparation of the plan has been informed by consultation undertaken in line with the Council's Statement of Community Involvement ([LAPP-CD-REG-17](#)), ([LAPP-CD-REG-18](#)).

1.12 All representations received have been carefully assessed, and wherever considered appropriate the plan has been amended to reflect comments made. A summary of comments and responses are set out in the Report of Consultation document for the LAPP Publication Stage ([LAPP-CD-REG-14](#)) and also for the LAPP Revised Publication Stage ([LAPP-CD-REG-15](#)).

#### **Issue 4: Sustainability Appraisal**

**Q1. *Has the Plan been subject to an appropriate Sustainability Appraisal (SA) as required by section 19(5) of the 2004 Act having regard to the requirements of the European Directive on strategic environmental assessment and relevant national policy and guidance?***

- 1.13 Yes. The LAPP Sustainability Appraisal, Publication Version (main document), January 2016 ([LAPP-CD-REG-08](#)) explains how the Sustainability Appraisal (SA) was carried out. Subsequent amendments to the LAPP through the Publication and Revised Publication stages have been considered by two addendums (see [LAPP-CD-REG-09](#) at the Publication stage and [LAPP-CD-REG-10](#) at the Revised Publication stage).
- 1.14 Figure 13 (on pages 88 and 89 in the main SA - [LAPP-CD-REG-08](#)) shows how the requirements of SEA Directive are met in the Sustainability Appraisal. Para 2.15 explains that the Council's approach to undertaking SA is based on the SA carried out for the ACS which in turn accords with 2005 Practical Guide to the Strategic Environmental Assessment Directive (SEA) ([LAPP.NCC 25](#)). The guidance is designed to ensure compliance with the requirements of the Planning and Compulsory Purchase Act 2004 and the SEA. It identifies the 5 stages of carrying out SA (Stages A-E). The methodology used for the SA for the LAPP develops the approach used to appraise the ACS which was found sound.
- 1.15 The SA Framework used for the ACS was adapted to reflect comments made during the consultation of the Preferred Option version SA, and also to ensure that it was sufficiently specific to Nottingham City. For example, the original "Landscape" objective was widened out to "Landscape and Townscape", given the more urban nature of the plan area (compared to Nottinghamshire) and also to capture potential improvements to the built environment through development. The revised framework also captured minor typographical errors. The revised SA Framework can be found at Figure 16 (pages 104-108 of the main SA Report ([LAPP-CD-REG-08](#))).
- 1.16 Both the SA and SEA processes require a review of relevant international, national, regional and local policy guidance, plans and strategies to identify their key requirements, and assess their relationship to the document that is being prepared. This review is found in Appendix 4 (page 327) of the main SA document and sets out the review of all documents and strategies considered relevant to the LAPP. The review establishes the environmental, social and economic situation and allows opportunities and synergies between the plans and the LAPP to be identified, as well as any potential conflicts. It also highlights any significant issues, objectives and targets that should be drawn out in the LAPP and any implications for the SA. Figure 14 on page 92 contains the key messages by theme from the reviews of plans, policies and programmes.
- 1.17 The SA process appraises each of the proposed Development Management policies and the proposed Site Allocations (PA1- 86). It has used the appraisals carried out at previous stages, but due to changes in circumstances, further known information, the revised SA framework etc, it is the appraisals within the main SA Report (and subsequent addendums – see [LAPP-CD-REG-09](#) and [LAPP-CD-REG-10](#)) which form the final SA of the LAPP. In SA Addendum 2 ([LAPP-CD-REG-10](#) Table 2 sets out where each policy appraisal can be found and Table 5 where each Site Allocation Appraisal can be found.

1.18 The 2012 NPPF states at para 165 that “A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors.”

1.19 It is considered that the SA for the LAPP meets the legal requirements (SEA) and requirements of the 2012 NPPF.

**Q2. Does the SA adequately assess the environmental, social and economic effects of the plan?**

1.20 Yes. The SA Framework builds on that used for the ACS. There are 14 objectives, which consider the environmental, social and economic impacts. For each objective there are “decision making criteria” and “indicators” used to appraise each site and policy.

1.21 Section 5 of the SA Publication Draft Main Report ([LAPP-CD-REG-08](#)) explains in detail the approach to policy and site appraisals. It explains that the appraisals are built on those previously undertaken for the SA of the Preferred Option of the LAPP and on-going appraisal has been a key principle of the SA process. This has allowed for continual assessment, refining of changes and consideration of comments received through consultation. This process also allowed the effects of new implemented development, or planning permissions, to be taken into account throughout the process and further refining of the SA objectives (see Section 4 – The revised SA Framework (page 103)). In addition, Section 8 (page 129) refers to the SA assessment of the reasonable alternative options for the development management policies and Section 10 (page 147) refers to the SA assessment of the reasonable alternative options for the site allocations.

1.22 Specialist and local knowledge along with a wide variety of data sources, covering a range of development constraints, have been used to arrive at reasoned conclusions. The particular circumstances of individual policies and site specific issues for allocations have been considered in each case. Cross checks of typologies (such as flood risk, heritage assets, biodiversity assets, etc) were also undertaken to ensure a consistent approach throughout. Where negative impacts were anticipated, potential mitigation measures have been highlighted to help ensure that, where needed, development can take place as sustainably as is possible. This is particularly important for sites that score less well in the SA.

1.23 As required by the SEA Directive, at each stage the cumulative, synergistic and secondary impacts of the LAPP have also been assessed. Figure 17 in the main report shows the colour coding used for the scoring of appraisals. Figure 28 and Figure 29 in the main report (Table 7 and Table 8 in Addendum 1 and Table 7 and Table 8 in Addendum 2) show all the results for LAPP policies and site allocations.

1.24 It should be noted that the three SA consultation bodies (Environment Agency, Historic England and Natural England) have remained engaged in the SA process through the various stages of the LAPP.

1.25 The SA has also recommended some changes to help ensure that the LAPP is as sustainable as possible. Examples of these are shown in Section 14 (page 217). It has also considered the cumulative, synergistic and secondary impacts of the policies and sites of the LAPP.

**Q3. Does the SA adequately consider reasonable alternatives where these exist?**

- 1.26 Yes. The same methodology for appraising all reasonable alternative policy options and alternative sites have been used. In the main SA ([LAPP-CD-REG-08](#)) Section 8 (page 129) looks at reasonable alternatives to policies of the Publication Version of the LAPP and summarises the SA findings for the reasonable alternatives considered. The individual assessments for each policy are set out in Appendix 5 (page 369). Where it is considered there is a reasonable alternative policy approach these can be found in Appendix 6 (page 389) after the appraisal of the actual policy approach.
- 1.27 Section 11 (page 181) of the main SA report looks at reasonable alternative sites that have not been taken forward into the LAPP with the individual appraisals for each of these sites set out in Appendix 8 (page 905). For instance, the appraisal of New Aspley Gardens (omission site) can be found at pages 957 to 966.
- 1.28 In SA Addendum 1 ([LAPP-CD-REG-09](#)), amended policies and sites were screened for changes that may have had an impact on the original appraisals and where necessary re-appraised. Reasonable alternatives for both policies and sites were also considered. In particular for policies, an alternative policy approach to Policy HO6 Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation and an Omission Policy for Nottingham Race Course were both considered. For sites, reasonable alternatives including amended size and mix of uses for PA38 Carlton Road Former Castle College and a suggested omission site at Wilford Road/Queens Drive were also considered.
- 1.29 In SA Addendum 2 ([LAPP-CD-REG-10](#)) the same process applied with the further proposed changes to policies and sites screened to consider the proposed changes and whether reappraisal was required. Most of the proposed changes to policies were screened out as it was unlikely that these would have a material impact on the original appraisals carried out apart from Policy TR3 and the justification text to Policy MI1. It was not considered that any alternative policy approaches needed to be examined at this stage of the plan (see section 3, page 2). The screening of proposed changes to sites again found few sites (8 in total) that warranted a re-appraisal, and no new omission sites had been put forward requiring appraisal.
- 1.30 Overall, it is considered that the SA for the LAPP is a robust assessment and consistent to all sites and policies. The SA has been an integral part of the plan making process and has performed a key role in providing a sound evidence base for the plan. It has informed the decision making process by facilitating the evaluation of alternatives (detailed in Section 8 and Section 11). It has also helped demonstrate that the plan is appropriate given the reasonable alternatives and where negative impacts have been found suitable mitigation is suggested (see Section 12 of the main report). Draft monitoring arrangements have also been put in place to ensure that the impact of the policies can be properly evaluated (see Section 15 of the main report).

### **Issue 5: Habitats Regulations**

**In response to the Inspector's Initial Questions [LAPP.INS.01], which requested the Council to consider whether further work was required to ensure compliance with the Habitat Regulations, the Council advised that, after seeking legal advice, a full review of the HRA was required to support the Plan and to ensure that it is legally compliant**

and (in respect of the Sherwood Forest possible potential Special Protection Area) sufficiently future proofed [LAPP.NCC08].

**Q1. What is the latest position regarding the screening report and if necessary, any appropriate assessment? Who has been involved in this work? What consultation has taken place and how have those comments been taken into account?**

1.31 In April 2018, the Court of Justice of the European Union handed down their judgment in the case of People Over Wind (see page 5 of Shadow Habitats Regulations Assessment to inform the assessment of the LAPP (Submission Version) ([LAPP.NCC18](#)). Prior to the ruling it had been established practice that competent authorities should take account of mitigation measures which had been incorporated into a plan or project when deciding whether it would have a likely significant effect. The court has now ruled that this is incorrect and that it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce harmful effects on a European site.

1.32 As a result of this judgement, the Council commissioned a Shadow HRA ([LAPP.NCC18](#)) from DTA Ecology. This work has subjected the LAPP to screening for likely significant effects in light of the HRA work already undertaken for the ACS. The report has concluded that all aspects of the plan have been screened out. In addition, it has been shown that it has no “effect” which might contribute in-combination to the effects from other plans and projects. As such, no further assessment in-combination is required.

1.33 Natural England were consulted on this document and its findings and have confirmed in their consultation response ([LAPP.NCC17](#)) that they consider that the document satisfactorily follows the Habitat Regulations and agree with its overall conclusions. In addition, Notts Wildlife Trust (NWT) and the Royal Society for the Protection of Birds (RSPB) were also consulted. No response was received by NWT and the RSPB stated that they will not be able to offer further feedback on the shadow HRA due to other priorities.

1.34 This process is very technical by its nature but the report provides very clear conclusions that all elements of the plan have been screened out as having no likely significant effect, and that no further assessment is required. As a result, the Council has been advised by the consultants (DTA Ecology), who carried out the Shadow HRA, that wider public consultation at this stage is not necessary as this is very rarely done in the case of HRA. However it is proposed that the HRA will be available as part of the Main Modifications consultation process.

**Q2. How will the work be taken into account in the Plan?**

1.35 The Shadow HRA ([LAPP.NCC18](#)) concludes that;

*“The LAPP has been subject to assessment under the Habitats Regulations. In accordance with Defra guidance the conclusions from the earlier HRA of the Core Strategy have been adopted where relevant, limiting the scope of this assessment to any “new” effects which might arise. All elements of the plan have been screened out as having no likely significant effect, either alone or in combination with other plans and projects. No further assessment is required.”*

1.36 As such, the only Post Submission Change (PPSC01) proposed to the Plan as a result of this additional work is to update para 2.32 as follows:

PPSC number	Para Ref/Policy	Proposed Post Submission Change
PPSC01	Background – para 2.32	<p>Amend text to read</p> <p><del>“2.32 The Habitats Directive and the Conservation of Habitats and Species Regulations 2010 require that Local Plans undergo an assessment to determine whether or not the Plan will have a significant effect on a European Site (a site of European importance for nature conservation). The ACS were subject of a Habitats Regulations Assessment in light of information available which indicated that the Sherwood Forest area may be formally proposed as a Special Protection Area in the near future, in recognition of the internationally important populations of woodlark and nightjar in this locality. This assessment concluded that any significant effects were capable of mitigation through changes to the ACS. These changes have been made. Since the LAPP is in general conformity with the Core Strategy it is not considered that there is a need to undertake a further screening of the LAPP. Whilst there were no significant effects identified for the Nottingham City area of the Aligned Core Strategies, this may need to be reassessed if an SPA classification is formalised. Allocations and/or any permissions given would be reviewed, and may be modified or revoked in order to ensure compliance with the requirements of the Habitats Regulations. During the preparation of the LAPP, the Court of Justice of the European Union handed down their judgment in the case of People Over Wind (April 2018). Prior to the ruling it had been established practice that competent authorities should take account of mitigation measures which had been incorporated into a plan or project when deciding whether it would have a likely significant effect. The court has now ruled that this is incorrect and that it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce harmful effects on a European site.</del></p> <p><u>2.32a As a consequence, the LAPP has been subject to a further Habitats Regulations Assessment, which has subjected the LAPP to screening for likely significant effects in light of the HRA work already undertaken for the Core Strategy. The report has concluded that all aspects of the plan have been screened out. In addition, it has been shown that it has no ‘effect’ which might contribute in-combination to the effects from other plans and projects. As such, no further assessment in-combination is required. However, this may need to be reassessed if an SPA classification is formalised. Allocations and/or any permissions given would be reviewed, and may be modified or revoked in order to ensure compliance with the requirements of the Habitats Regulations”</u></p>

**Q3. Is the Plan legally compliant with respect to the Habitats Regulations?**

- 1.37 Yes. The report is a “shadow” assessment as it is for the “competent authority”, in this case Nottingham City Council, to make the final decisions under the Regulations. The findings of the Shadow HRA will be adopted along with the adoption of the LAPP following the examination. The plan will then be legally compliant. Until then, Natural England has confirmed that all elements of the plan have been screened out as having no likely significant effect, either alone or in combination with other plans and projects. It is considered that no further assessment is required ([LAPP.NCC19](#)).

**Issue 6: Other Legal and Procedural Requirements**

**Q1. Is the Plan in compliance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 which requires development plan documents to include policies designed to secure the development and use of land in a local planning authority’s area to contribute to the mitigation of, and adaptation to, climate change?**

- 1.38 Yes. The over-arching Climate Change policy is set out in the ACS (Policy 1). The LAPP builds on this, primarily with the climate change policies CC1, CC2 and CC3 which cover issues such as water consumption, energy efficiency, decentralised energy, flood risk and Sustainable Drainage Systems. Examples of all of these include green roofs and grey water recycling (CC1), and a 30% reduction in surface water run off (CC3). Other policies of the LAPP such as the design policies and the Site Allocation Development Principles contribute to the mitigation of, and adaptation to, climate change. For instance policies DE1 and DE2 include guidance on waste and recycling, encouraging the re-use of existing building, and maximising the opportunities for sustainable travel.

**Q2. A number of policies refer to a Supplementary Planning Document or other standalone document thereby giving development plan status to documents which do not have statutory force and which have not been subject to the same process of preparation, consultation and Examination. Would this comply with the Regulations?**

- 1.39 Yes. Further consideration has been given to this issue and although unintentional, the Council considers that to elevate such documents to policy does not comply with the Regulations. Accordingly the following Proposed Post Submission Changes are proposed (PPSC02-PPSC11):

PPSC number	Para Ref/Policy	Proposed Post Submission Change
PPSC02	Policy EE3: Change of Use to Non-Employment Uses	Delete from criterion d) “ <del>as set out in an agreed Development Brief</del> ”
PPSC03	Policy SH2: Development within Primary Frontages	<ul style="list-style-type: none"> <li>Delete criterion 1 e) “<del>supports any local development strategy for the area, including that set out in any adopted SPD; and</del>”</li> <li>Amend criterion 2 h) to read “whether the proposal supports any local development strategy for the area, including that set</li> </ul>

PPSC number	Para Ref/Policy	Proposed Post Submission Change
		<del>out in any area specific development plan policy and/or adopted SPD regeneration policies RE2 to RE5.”</del>
PPSC04	Policy SH3: Development within Secondary Frontages	Delete criterion e) <del>“where the proposal supports any local development strategy for the area, including that set out in any adopted SPD”</del>
PPSC05	Policy SH4: Development of Main Town Centre Uses in Edge of Centre and Out of Centre Locations	Delete criterion 3 f) <del>“whether the proposal supports any local development strategy for the area, including that set out in any adopted SPD”</del>
PPSC06	Policy SH5: Independent Retail Clusters	Delete criterion e) <del>“the proposal supports any local development strategy for the area, including that set out in any area specific development plan policy and/or adopted SPD”</del>
PPSC07	Policy SH6: Food and Drink Uses and High Occupancy Licensed Premises/Entertainment Venues within the City Centre	Amend criterion a) to read “whether the proposal supports any local development strategy for the area, including that set out in any area specific development plan policy and/or adopted SPD <u>regeneration policies RE2 to RE5.</u> ”
PPSC08	Policy SH7: Centres of Neighbourhood Importance (CONIs)	Delete criterion a) <del>“whether the proposal supports any local development strategy for the area, including that set out in any adopted SPD”</del>
PPSC09	Policy LS1: Food and Drink Uses and Licensed Entertainment Venues Outside the City Centre	Delete criterion c) <del>“the proposal would support and not undermine any local development strategy for the area and / or up to date and adopted SPD for the site, Centre or area”</del>
PPSC10	Policy H05: Locations for Purpose Built Student Accommodation	Delete criterion f) <del>“sites where student accommodation accords with an approved SPD”</del>
PPSC11	Policy IN4: Developer Contributions	Delete <del>“and related SPDs”</del> from criterion 1a), 1b), 1c), 1d), 1e), and 1f) amending criteria of Policy IN4 to read:  a) employment and training in accordance with Policy EE4 <del>and related SPDs</del> ; b) open space in accordance with Policy EN2 and EN3 <u>and</u> relevant site allocations <del>and related SPDs</del> ;

PPSC number	Para Ref/Policy	Proposed Post Submission Change
		<p>c) drainage and flood protection in accordance with Policy CC3 <u>and</u> relevant site allocations <del>and related SPDs</del>;</p> <p>d) transport in accordance with Policies TR1 and TR2 <u>and</u> relevant site allocations <del>and related SPDs</del>;</p> <p>e) education in accordance with Policy LS5 <del>and related SPDs</del>; and</p> <p>f) affordable housing in accordance with Policy HO3 <u>and</u> relevant site allocations <del>and related SPDs</del>.</p> <p>Add the following to the last sentence of the Justification text at Para 6.7 <u>“Supplementary Planning Documents will be used to provide further guidance and to set the charges that are established by this policy where necessary.”</u></p>

**Q3. Is it appropriate for all of the policies, allocations and designations within the LAPP to be strategic for Neighbourhood Plan purposes?**

1.40 One Neighbourhood Forum has been designated in Nottingham City, the Sneinton Neighbourhood Forum, in February 2015. The Forum have not yet published a draft Neighbourhood Plan. There has been no other interest in progressing a Neighbourhood Plans in the City.

1.41 In response to this question, a review of policies against the 2018 NPPF para 20, which states:- "Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation."

1.42 This review has concluded that the following policies are not strategic for the purposes of Neighbourhood Planning:-

- Policy SH5: Independent Retail Clusters
- Policy DE5: Shopfronts
- Policy DE6: Advertisements
- Policy LS4: Public Houses outside the City Centre and/or designated as an Asset of Community Value
- Policy LS5: Community Facilities

1.43 This review results in a Proposed Post Submission Change to the LAPP (PPSC12), at paragraph 2.16 as set out below.

PPSC number	Para Ref/Policy	Proposed Post Submission Change
PPSC12	2.16	<p>Amend text to read:</p> <p>“2.16 In addition to the policies and allocations contained with the Core Strategy which are all considered “strategic”, the City Council proposes that <u>all the majority of the policies, and all the allocations and designations within the LAPP are also considered “strategic” for the purposes of Neighbourhood Planning. The policies have been considered in the light of para 184 and 185 of the 2012 NPPF, and screened against the strategic priorities at para 156. It has been concluded that the following are not strategic for Neighbourhood Planning Purposes:</u></p> <ul style="list-style-type: none"> <li>• Policy SH5: Independent Retail Clusters</li> <li>• Policy DE5: Shopfronts</li> <li>• Policy DE6: Advertisements</li> <li>• Policy LS4: Public Houses outside the City Centre and/or designated as an Asset of Community Value</li> <li>• Policy LS5: Community Faculties</li> </ul> <p><u>2.16a This is owing to the following reasons The justification for strategic policies is as follows:</u></p> <ul style="list-style-type: none"> <li>• The LAPP contains a number of Development Management Policies which will provide the context for the consideration of development proposals across the City. In order to facilitate consistent implementation it is proposed that all Development Management Policies are regarded as ‘strategic’, and any Neighbourhood Plan policies should develop the Local Plan policies in a local context, rather than replace them.</li> <li>• Owing to the City’s tightly.....”</li> </ul>

## **Post Submission Changes as a Result of this Statement**

1.44 For completeness, listed below are all the Proposed Post Submission Changes as a result of this statement.

<b>PPSC number</b>	<b>Para Ref/Policy</b>	<b>Proposed Post Submission Change</b>
PPSC01	Background – para 2.32	<p>Amend text to read</p> <p>“2.32 The Habitats Directive and the Conservation of Habitats and Species Regulations 2010 require that Local Plans undergo an assessment to determine whether or not the Plan will have a significant effect on a European Site (a site of European importance for nature conservation). The ACS were subject of a Habitats Regulations Assessment in light of information available which indicated that the Sherwood Forest area may be formally proposed as a Special Protection Area in the near future, in recognition of the internationally important populations of woodlark and nightjar in this locality. This assessment concluded that any significant effects were capable of mitigation through changes to the ACS. These changes have been made. <del>Since the LAPP is in general conformity with the Core Strategy it is not considered that there is a need to undertake a further screening of the LAPP. Whilst there were no significant effects identified for the Nottingham City area of the Aligned Core Strategies, this may need to be reassessed if an SPA classification is formalised. Allocations and/or any permissions given would be reviewed, and may be modified or revoked in order to ensure compliance with the requirements of the Habitats Regulations. During the preparation of the LAPP, the Court of Justice of the European Union handed down their judgment in the case of People Over Wind (April 2018). Prior to the ruling it had been established practice that competent authorities should take account of mitigation measures which had been incorporated into a plan or project when deciding whether it would have a likely significant effect. The court has now ruled that this is incorrect and that it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce harmful effects on a European site.</del></p>

PPSC number	Para Ref/Policy	Proposed Post Submission Change
		<p><u>2.32a As a consequence, the LAPP has been subject to a further Habitats Regulations Assessment, which has subjected the LAPP to screening for likely significant effects in light of the HRA work already undertaken for the Core Strategy. The report has concluded that all aspects of the plan have been screened out. In addition, it has been shown that it has no 'effect' which might contribute in-combination to the effects from other plans and projects. As such, no further assessment in-combination is required. However, this may need to be reassessed if an SPA classification is formalised. Allocations and/or any permissions given would be reviewed, and may be modified or revoked in order to ensure compliance with the requirements of the Habitats Regulations"</u></p>
PPSC02	Policy EE3: Change of Use to Non-Employment Uses	Delete from criterion d) "as set out in an agreed Development Brief"
PPSC03	Policy SH2: Development within Primary Frontages	<ul style="list-style-type: none"> <li>• Delete criterion 1 e) "supports any local development strategy for the area, including that set out in any adopted SPD; and"</li> </ul> <p>Amend criterion 2 h) to read "whether the proposal supports any local development strategy for the area, including that set out in any area specific development plan policy and/or adopted SPD regeneration policies RE2 to RE5."</p>
PPSC04	Policy SH3: Development within Secondary Frontages	<ul style="list-style-type: none"> <li>• Delete criterion e) "where the proposal supports any local development strategy for the area, including that set out in any adopted SPD"</li> </ul>
PPSC05	Policy SH4: Development of Main Town Centre Uses in Edge of Centre and Out of Centre Locations	<ul style="list-style-type: none"> <li>• Delete criterion 3 f) "whether the proposal supports any local development strategy for the area, including that set out in any adopted SPD"</li> </ul>
PPSC06	Policy SH5: Independent Retail Clusters	<ul style="list-style-type: none"> <li>• Delete criterion e) "the proposal supports any local development strategy for the area, including that set out in any area specific development plan policy and/or adopted SPD"</li> </ul>
PPSC07	Policy SH6: Food and Drink Uses and High	<ul style="list-style-type: none"> <li>• Amend criterion a) to read "whether the proposal supports any local development strategy for the</li> </ul>

PPSC number	Para Ref/Policy	Proposed Post Submission Change
	Occupancy Licensed Premises/Entertainment Venues within the City Centre	<del>area, including that set out in any area specific development plan policy and/or adopted SPD regeneration policies RE2 to RE5.”</del>
PPSC08	Policy SH7: Centres of Neighbourhood Importance (CONIs)	<ul style="list-style-type: none"> <li>• Delete criterion a) <del>“whether the proposal supports any local development strategy for the area, including that set out in any adopted SPD”</del></li> </ul>
PPSC09	Policy LS1: Food and Drink Uses and Licensed Entertainment Venues Outside the City Centre	<ul style="list-style-type: none"> <li>• Delete criterion c) <del>“the proposal would support and not undermine any local development strategy for the area and / or up to date and adopted SPD for the site, Centre or area”</del></li> </ul>
PPSC10	Policy H05: Locations for Purpose Built Student Accommodation	<ul style="list-style-type: none"> <li>• Delete criterion f) <del>“sites where student accommodation accords with an approved SPD”</del></li> </ul>
PPSC11	Policy IN4: Developer Contributions	<p>Delete <del>“and related SPDs”</del> from criterion 1a), 1b), 1c), 1d), 1e), and 1f) amending criteria of Policy IN4 to read:</p> <p>a) employment and training in accordance with Policy EE4 <del>and related SPDs</del>;</p> <p>b) open space in accordance with Policy EN2 and EN3 <u>and</u> relevant site allocations <del>and related SPDs</del>;</p> <p>c) drainage and flood protection in accordance with Policy CC3 <u>and</u> relevant site allocations <del>and related SPDs</del>;</p> <p>d) transport in accordance with Policies TR1 and TR2 <u>and</u> relevant site allocations <del>and related SPDs</del>;</p> <p>e) education in accordance with Policy LS5 <del>and related SPDs</del>; and</p> <p>f) affordable housing in accordance with Policy HO3 <u>and</u> relevant site allocations <del>and related SPDs</del>.</p> <p>Add the following to the last sentence of the Justification text at Para 6.7 <u>“Supplementary Planning Documents will be used to provide further guidance and to set the charges that are established by this policy where necessary.”</u></p>
PPSC12	2.16	<p>Amend text to read:</p> <p>“2.16 In addition to the policies and allocations contained with the Core Strategy which are all considered “strategic”, the City Council proposes that <del>at</del> <u>the majority</u> of the policies, <u>and all the</u> allocations and designations within the LAPP are also considered “strategic” for the purposes of Neighbourhood Planning. <u>The policies have been</u></p>

PPSC number	Para Ref/Policy	Proposed Post Submission Change
		<p><u>considered in the light of para 184 and 185 of the NPPF, and screened against the strategic priorities at para 156. It has been concluded that the following are not strategic for Neighbourhood Planning Purposes:</u></p> <ul style="list-style-type: none"> <li>• Policy SH5: Independent Retail Clusters</li> <li>• Policy DE5: Shopfronts</li> <li>• Policy DE6: Advertisements</li> <li>• Policy LS4: Public Houses outside the City Centre and/or designated as an Asset of Community Value</li> <li>• Policy LS5: Community Faculties</li> </ul> <p><u>2.16a This is owing to the following reasons-The justification for strategic policies is as follows:</u></p> <ul style="list-style-type: none"> <li>• The LAPP contains a number of Development Management Policies which will provide the context for the consideration of development proposals across the City. In order to facilitate consistent implementation it is proposed that all Development Management Policies are regarded as 'strategic', and any Neighbourhood Plan policies should develop the Local Plan policies in a local context, rather than replace them.</li> <li>• Owing to the City's tightly ... ”</li> </ul>