

Gotham Neighbourhood Plan Submission Version – Comments of Rushcliffe Borough Council

October 2018

In accordance with paragraph 214 of the revised NPPF, RBC's comments regarding compliance with national policy refer to the 2012 framework as the Neighbourhood Plan was submitted to RBC (in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012) before 24 January 2019.

	Policy/ Paragraph	Basic condition test/ Factual correction	Comment	Suggested amendment
1.		Factual	A number of substantive comments that the Borough Council made to the pre-submission draft neighbourhood plan have not been accepted by the parish council, without any further reason given in the response documentation. Where this is the case, these comments have been reiterated to enable these to be considered through the examination process.	
2.		Legal tests	Some, but not all of the policies as worded do not meet the legal requirement that neighbourhood plans contain policies that relate to the development or use of land as required by S38a (2) of the Planning and Compulsory Act 2004 (as amended). These are identified in subsequent comments where this is considered to be the case, together with suggested amendments where appropriate.	
3.	1.1	Factual	Pleased to see comments made at the pre submission consultation stage have been incorporated into the	Cross-reference to the plan after paragraph 2.2 and give the plan a title to cross reference to.

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			submission draft Neighbourhood Plan. The plan of the neighbourhood area that is referred to in the paragraph appears to have been moved from just after the paragraph, although reference is still made to it	
4.	1.2	Factual. Conformity	As previously advised within RBC's representation on the draft Neighbourhood Plan, this paragraph still refers to a particular point in time rather than as at adoption. Local Plan Part 2 has been submitted for examination and hearings have taken place November and December 2018. Subject to examination and adoption of Local Plan Part 2, it is unlikely that further opportunities to make submissions will be available after the adoption of the Neighbourhood Plan.	Paragraph 1.2 should be removed from the final version of the plan.
5.	2.3	Factual	Clifton south (Land South of Clifton in the Core Strategy) has a resolution to grant outline planning permission subject to completion of a Section 106 legal agreement.	
6.	3.2 and last part of paragraph contained on page 9	Conformity National Policy	As previously advised within RBC's representation on the draft Neighbourhood Plan, paragraphs 3.2 and 3.3 are at odds with paragraph 3.3.17 of the adopted Core Strategy. Paragraph 3.3.17 amplifies what is considered to be local needs. The paragraph states that:	Paragraphs 3.2 and 3.3 should be removed or reworded. Rewording should reflect paragraph 3.3.17 of the Core Strategy, the Borough's five year supply position and requirement to address this issue within Local Plan Part 2 and where appropriate within Neighbourhood Plan's.

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			<p><i>'In other settlements, development will meet local needs only. Local needs will be delivered through small scale infill development or on exception sites (see Policy 8). Beyond this, where small scale allocations are appropriate to provide further for local needs, these will be included in the Local Plan Part 2: Land and Planning Policies Development Plan Document, including Neighbourhood Plans.'</i></p> <p>Whilst there is no further definition of local needs for other villages across the Borough. As explained in paragraph 3.9 of the Local Plan Part 2 submission version, it was not originally expected that Local Plan Part 2 would need to allocate any sites for new housing at smaller 'other villages' because requirements would be met within the strategic allocations and at Key Settlements. However, the Borough Council has now concluded that a number of other villages will need to accommodate some level of new housing on greenfield sites in order to help resolve the current housing shortfall. This is because it is not possible to allocate enough suitable land at the main Nottingham urban area (within Rushcliffe) and at the key settlements alone, which could deliver a sufficient number of new homes quickly enough to completely meet the shortfall. There instead needs to be a wider range of settlements</p>	

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			<p>and sites all delivering new housing development at the same time.</p> <p>The Borough Council has undertaken additional assessment work through the Identification of Additional Settlements Background Paper, February 2016. The assessment recognises that Gotham does not provide for a full range of facilities. However it does state that the basic level of facilities (e.g. schools; shops; bus services) that are available are potentially capable of potentially supporting a relatively limited level of housing growth without compromising the strategy set out in the Core Strategy for the distribution of new housing.</p> <p>The background paper concludes that development of around 100 dwellings in certain other villages is appropriate, depending on the overall size of the settlement, local character, environmental and conservation considerations and the availability of suitable sites for housing and their particular size and configuration.</p> <p>Whilst not yet part of the development plan, any housing proposals contained within Local Plan Part 2 would be strategic elements of the Borough Council's</p>	

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			Local Plan should they be subject to successful examination and adopted. It is therefore considered that narrowing the definition of local needs to a parish level would be at odds with the housing elements of Local Plan Part 2, and national policy which requires the Borough Council identify a 5 year supply of deliverable sites.	
7.	5.10 to 5.14 and GS1	Conformity National Guidance	<p>Overall comments</p> <p>GS1 a) As previously advised within RBC representation on the draft plan, the maintenance of footpaths and bridleways would be the carried out and ensured under the function of the County Council, or landowners themselves. As neighbourhood plan policy should relate back to development management decisions. “Closures and diversions will be resisted unless it can be shown there would be a net gain in terms of amenity and convenience”. Proposals that result in loss or diversion of footpaths should be considered against the wider public benefits. This element of the policy risks rendering any closure or diversion of “The Green Network” to be unacceptable and therefore would stifle development that could offer other benefits (aside from amenity or convenience).</p> <p>GS1 b) As previously advised within RBC’s</p>	<p>Consider the following wording for the last sentence of a):</p> <p>‘Planning applications which will result in the closure and diversion of a public right of way will not be permitted unless it can be demonstrated that satisfactory alternative provision can be made.’</p> <p>Suggest the following wording: “<i>Developments which</i></p>

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			<p>representation on the draft plan, this part of the policy appears to focus on finding and allocating funding to conserve and enhance areas of biodiversity, rather than the management of development that may affect it. It is considered that this part of the policy could not be used in the determination of planning applications by the Borough Council.</p> <p>GS1 c) No objections to the principle of identifying local green space as such designations is supported by national planning practice guidance. Local Green Spaces offer opportunities to protect areas of significant recreational, historical, wildlife and aesthetic value to the local community. It should however be noted that the majority of the proposed local green spaces are located within the Green Belt, and that designation as a local green space would not offer any additional policy benefits than the present Green Belt status (see paragraph 78 of the National Planning Policy Framework 2012).</p>	<p><i>harm the Gotham designated wildlife sites and ancient woodlands will not be supported. Other developments which include provision for, or contribute to, the establishment and retention of a network of green infrastructure within the parish will be looked on favourably. Proposals which contribute towards new links and / or enhancement of the existing green infrastructure network will be supported. Proposals should consider opportunities to retain, enhance and incorporate features which are beneficial for wildlife and habitat creation through their landscape proposals and design'</i> The wording of this part of the policy as drafted could then be turned into supporting text.</p> <p>Reword criterion to reflect national policy on Green Belt and reflecting the purposes on neighbourhood plans to provide policy for consideration of planning applications. One example that could be used is as follows:</p> <p>'Local Green Spaces are identified map 3. These spaces will not be developed for other uses except in very special circumstances.</p>

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			<p>As previously advised within RBC representation on the draft plan, national policy indicates that policies for managing development within a Local Green Space should be consistent with those for Green Belts. Green Belt policy has two elements to it in relation to development management decisions. Firstly, the test that is applied to planning decisions is to demonstrate very special circumstances and not very exceptional circumstances. Secondly there are exceptions listed in Green Belt policy where development may be permitted. This part of the policy is worded as such as to try and apply also to plan making in terms of the Borough Council's Local Plan and not to decision taking, which is what the scope of neighbourhood plans should be limited to.</p> <p>Furthermore, the requirement to consider the existence of alternative sites within Rushcliffe and/or the Greater Nottingham Housing Market Area before determining whether these 'very exceptional circumstances' exist goes beyond the remit of the plan which is restricted to Gotham Parish. It would also be unreasonable to apply a policy which, due to the wide alternative site search area, would effectively prevent any housing in the Local Green Space in all circumstances. Whilst RBC remains</p>	<p>These circumstances will not exist unless the harm to the purpose of the green space, the loss to the local community, and any other harm are outweighed by other considerations.'</p> <p>At the very least, the extent of the proposed local green space east of Gypsum Way and west of Leake Road ('West' on map 2b) of the Gotham Neighbourhood Plan) where landowners have not been made aware of the proposed designation until this stage should be amended to exclude the additional land to the south.</p>

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			<p>concerned with the Neighbourhood Plan's selection of some areas of local green space, we welcome the publication of Background Paper 9 (Locally designated Green Space and Green Infrastructure), provides useful information regarding the particular importance of these areas when assessed against paragraph of the 2012 NPPF.</p> <p>There is still concern that there has not been any engagement with the relevant landowners of proposed local green space, as advised by the planning practice guidance.</p> <p>There are some tensions between the proposed housing allocation within local plan part 2 at Gypsum Way, and the proposed local green space designation contained within the neighbourhood plan. The emerging Local Plan part 2 is at examination stage, and all allocations for development are considered to be strategic policies. This is therefore a potential conformity issue should Local Plan Part 2 be adopted in its present form.</p>	<p>The extent of the proposed local green space east of Gypsum Way and west of Leake Road ('West' on map 2b) of the Gotham Neighbourhood Plan) should be amended to exclude the proposed allocation contained within the submission version of Local Plan Part 2</p>
8.	Map 2b and 3	Legal	It is unclear how the proposed public rights of way that are indicated on the map relates back to policy GS1	

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9.	GS1 map 2b and map 2c	National Policy Conformity	<p>In terms of each proposed green space allocation, the background paper (BP9) provides an assessment against the examples contained within paragraph 77 of the 2012 National Planning Policy Framework. Page 8 of the assessment outlines the circumstances where areas of land would potentially qualify as local green space. Turning to the criteria:</p> <p>Proximity We agree that all of the proposed local green space is within reasonable proximity to the community that they serve.</p> <p>Beauty There is no detail provided as to how a site would be judged to be of beauty, however the individual site assessments do provide a commentary on this.</p> <p>Historic significance In terms of historic significance, ridge and furrow may qualify as non-designated heritage assets, however the evidence that supports their identification dates from the 1940s and many of the areas have significantly degraded over time through being subject to modern agricultural practices. In addition, none of the ridge and furrow around Gotham is considered worthy enough to</p>	It is considered that the methodology would benefit clarification or refinement in relation to beauty, Historic significance, recreation and tranquillity.

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			<p>be of such condition to be protected as a scheduled ancient monument. Finally it should be made clear that other than in the exceptional cases where Ridge and Furrow is scheduled and becomes of national importance, there is no way for the Borough Council to protect ridge and furrow from being further degraded by being ploughed up or removed. If these features are removed, do the proposed local green spaces have any other value which makes them different from all the other paddocks which surround the village?</p> <p>Recreation It should be self-explanatory if a site is valued as a local green space, however it may be of benefit to site some examples eg playing fields.</p> <p>Tranquillity Similar to beauty, There is not any detail contained in the assessment as to how a site would be judged to be tranquil, however it is recognised that the individual site assessments do provide a commentary on this.</p> <p>Wildlife Areas with wildlife can be designated based upon whether there are particular biodiversity interests or whether they have formal or informal designations (e.g.</p>	

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			<p>local wildlife site, Local Nature Reserve SSSI etc.)..</p> <p>Extent It is considered that the amount of local green space still amounts to extensive tracts of land, contrary to the National Planning Policy Framework.</p>	
10.	GS1Map 2b and map 2C	National policy Conformity	<p>In terms of site specific observations, and having regard to the Local Green Space paper BD9, the following comments are made:</p> <p>Central Support the principle of the identifying the churchyard and cemetery as local green space as they provide open space and tranquillity opportunities, although these are already afforded protection under the NPPF as formal open space. Additionally, these areas will fall within the Gotham inset should local plan part 2 be adopted in its current form, therefore the designation will provide green belt protection to these areas. There are four areas of local green space proposed that are essentially grass verges (Moor Lane x2, The Old Garth and the corner of Kegworth Road roundabout). Whilst these areas are identified in the relevant descriptions, they are not assessed against the criteria.</p>	With the exception of the disused railway line, remove the area to the west of Home farm and to the north of Kegworth Road from the proposed local green space designation

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			<p>It is also difficult to identify their extent on the map given their size and the colour of the shading. Finally, neighbourhood plans relate to policies that would be referred to when considering planning applications. If the verges are part of unclassified highway land or are owned by a public body, planning permission would not be required for their removal or the crossing of these verges through the provision of dropped kerbs or tarmac.</p> <p>Allotments The allotments fall within the Green Belt therefore they have Green Belt protection. Broadly agree with the supporting green space assessment contained in the background paper.</p> <p>Recreation Ground The recreation ground falls within the Green Belt therefore it already benefits from green belt protection. Support the principle of identifying the recreation ground as a local green space. Broadly agree with the contents of the supporting assessment contained within the background paper.</p> <p>SSSI and GNR The SSSI and GNR falls within the Green Belt therefore</p>	

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			<p>it already benefits from green belt protection. Support the principle of identifying SSSI and GNR as a local green space. Broadly agree with the green space assessment. Land to the rear of the British Legion which leads up to this area as a green corridor not been identified as a Local Green Space even though it appears to meet three requirements. It is reasonably close proximity to the community it serves, provides informal recreational benefits (connecting to Gotham Hill, SSSI and neighbouring Memorial Hall Recreation Ground), contains priority scrub and grassland habitats which supports wildlife.</p> <p>South This area falls within the Green Belt therefore it already benefits from green belt protection. Support the principle of identifying this area. Broadly agree with the green space assessment.</p> <p>North This area falls within the Green Belt therefore it already benefits from green belt protection. Disagree with some of the statements in the green space assessment about particular parts of the proposed designation. For the area north of Gotham Road, disagree in terms of the importance attached to its beauty. Local Green Space</p>	<p>The designation should be modified to relate to the former mineral railway line only, which is more in-keeping with paragraph 77 of the national planning policy framework.</p>

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			<p>designations should relate to the characteristics of the green space itself and not whether the green space preserves view to hills that lie beyond it. In addition, views of the hills are available further west from Kegworth Road and further east from the recreation ground. In terms of historic assets, disagree with the importance attached to the site. In particular, the ridge and furrow is degenerated in this location. Agree that the school playing field has recreational value, and agree that the former railway line has wildlife value. Do not consider that the area of pasture has wildlife value</p> <p>West</p> <p>This area falls within the Green Belt therefore it already benefits from green belt protection, although parts of the site are proposed for removal from the green belt through Local Plan Part 2. Notwithstanding the issue already raised earlier in terms of potential conformity issues with part of this proposed local green space, there are a number of detailed comments in relation to the assessment criteria. In terms of beauty, please similar comments are made to those made to north. . Local Green Space designations should relate to the characteristics of the green space itself and not whether the green space preserves view to hills that lie beyond it. Similarly, the ridge and furrow is generally not of</p>	<p>The designation should be modified to relate to the former mineral railway line only, which is more in-keeping with paragraph 77 of the national planning policy framework.</p>

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			<p>great quality. Other than the disused railway, the whole area offers no recreational value.</p> <p>Background Paper 9 highlights the site's location within a Biodiversity Focal Area. This covers a significant area between the Ratcliffe on Trent Power Station and Bunny, within which emerging Policy 38 of Local Plan Part 2 will be applied and where the integrity of the network is a critical consideration. The land's location within this area is an important consideration. It does not justify the designation of the site as a local green space however. Furthermore, there does not appear to be any special biodiversity value, beyond the LWS.</p>	
11.	Housing general	National policy	As previously advised within RBC's representation on the draft plan, under the National Planning Policy Framework 2012, until the proposed inset boundary for Gotham as defined on the proposed policies map supporting the local plan has been adopted, the status of Gotham is that of a washed over village. Any proposals for housing allocations would be restricted to the Green Belt text of limited infilling. In terms of infill development, there is a borough-wide allowance for infilling on brownfield sites contained within its Core	

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			Strategy, therefore any proposals for brownfield development may not necessarily assist the Borough Council in addressing its housing shortfall. Any proposals for residential development on greenfield sites, including the development on garden land could assist the Borough Council in addressing its housing shortfall.	
12.	6.6	Clarity	Consider that the paragraph is little unclear in terms of the position relating to the land to the rear of the British Legion.	Consider rewording as follows: <i>“The Parish Council has in the past supported land to the rear of the British Legion as a potential rural exception site. The Parish Council considers that if the site were to come forward for development, that it should no longer be restricted to rural exception development. The reasons are as follows:”</i> (carry on with bullet points)
13.	6.8-6.12	Conformity National Policy	Reiterate earlier comments regarding conflict with paragraph 3.3.17 of the adopted Core Strategy.	
14.	6.18	National Policy	It is considered that the paragraph would benefit from additional text which to ensures that any development proposals should have regard to the potential impact on the listed building and its setting if the site were to be redeveloped, as well as securing a use for it.	<i>“The Tithe Barn is the only listed building that lies within a supported housing site. Any redevelopment proposals should demonstrate an understanding of the significance of the heritage asset and its setting, and demonstrate that the merits of the proposal bring</i>

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				<i>public benefits which outweigh any harm arising from its proposal. These benefits may include enhancing its setting, restoration of the building and securing a long-term alternative use for it.”</i>
15.	H 1	National Policy	<p>As previously advised within RBC’s representation on the draft Neighbourhood Plan, any sites that constitute limited infilling, or redevelopment opportunities could potentially be included as allocations within the Neighbourhood Plan as these would comply with the adopted Core Strategy and national Green Belt policy. In addition, should the proposed inset boundary identified as part of the draft Local Plan Part 2 be adopted, more substantial development would be acceptable within it.</p> <p>Under the 2012 National Planning Policy Framework, allocations that are not limited infilling could not form part of the Neighbourhood Plan as they would constitute inappropriate development in the Green Belt. In terms of amending the extent of the Green Belt, the 2012 Framework states that the extent of Green Belt should only be altered during the preparation and review of a Local Plan. Because of this, the Neighbourhood Plan recommends the allocation of sites through the Borough Council’s Local Plan. The</p>	Remove sites that do not constitute limited infilling or redevelopment, or are not a rural exception site. Consider allocating those sites through policy H1 of the Neighbourhood Plan where there is no objection in principle to the sites development. See subsequent site-specific comments.

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			Borough Council has commented separately on each of these sites both at the previous consultation stage and through this period of representation (see below). Notwithstanding site-specific comments, the Borough Council's Local Plan Part 2 is at examination stage, and the only mechanisms now available to it for including sites that have not been included to date is if the examination Inspector advises that additional or alternative housing sites are required in order to achieve a 5-year land supply and/or to meet the Borough's housing target over the plan period to 2028.	
16.	H 1	National policy	Former British Legion. As previously advised RBC has no objection in principle to this site's allocation. As the site is on the market it is considered to be available for development. Whilst the site is of a scale that could be considered to be larger than limited infilling, it is within the proposed Green Belt inset for Gotham if Local Plan Part 2 is adopted in its current form.	There is the potential to allocate the site within the Neighbourhood Plan.
17.	HS1	National Policy	NCT bus depot. As previously advised, RBC has no objection in principle to this sites identification as a future housing site, and that the policy recognises that its development is dependent on the owner's future business plans. Whilst the site is of a scale that could be considered to	There is the potential to allocate the site within the Neighbourhood Plan.

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			be larger than limited infilling, it is within the proposed green belt inset for Gotham if Local Plan Part 2 is adopted in its current form.	
18.	HS1	National Policy. Conformity with policy 16 of the Core Strategy	<p>GOT1 Land north of British Legion building.</p> <p>As previously advised, this site is unimproved neutral grassland within the Gotham Hills, West Leake & Bunny Ridge Line Focal Area and provides connectivity for grassland species. In addition the site contains the following:</p> <ul style="list-style-type: none"> • Habitats of Principal Importance (Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act) are present within the site comprising of Species Rich Hedgerows and Traditional Orchard, these habitats should where possible protect and enhance. In line with paragraph 117 the 2012 NPPF, plans should seek to preserve or enhance such habitats. • The hedgerow is likely to qualify as important under the Hedgerow Regulations 1997; • Habitat suitable for protected species (badgers, reptiles, bats, wild birds) and for invertebrates and small mammals are present; • The grassland is not species poor and has potential to be ecologically valuable if managed 	Delete site

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			<p>appropriately;</p> <ul style="list-style-type: none"> • The site is near sites of habitats of nature conservation importance including calcareous grasslands, including SSSI's and LWS (LWS not identified within the ecology report produced on behalf of Gotham Parish Council); • The site functions as a green corridor • The site is within the Gotham Hills, West Leake & Bunny Ridge Line Biodiversity Opportunity Focal Area and provides connectivity for grassland species (not identified within the report). <p>In addition, satisfactory vehicular access to the site of an adoptable standard is reliant on third party land (Former British Legion). It is considered that the site is not deliverable at this present time unless it is demonstrated that the landowners are willing to cooperate.</p> <p>The submitted documentation refers to further assessments of the site's ecological value (within the plan (paragraph 6.23) and the SEA screening). Due to the presence of protected species, a redacted version of an ecological assessment has been made available</p>	

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			<p>in support of the pre-examination period of representation. The Borough Council has consulted the relevant environmental bodies on the un-redacted report, which contains sensitive information, and the un-redacted report and responses to it will be made available to the Neighbourhood Plan examination's examiner.</p> <p>The site does not fall within the proposed green belt inset boundary for Gotham therefore the allocation of the site would be contrary to 2012 National Planning Policy Framework as it is not considered to be limited infilling.</p>	
19.	HS1	National Policy Conformity	<p>GOT3 Land north of Kegworth Road/ Home Farm (East)</p> <p>As previously advised, our records indicate that there has been no recent correspondence in relation to the site being available for development either through the local plan process or through the Strategic Housing Land Availability Assessment process. Critically, there appears to be no reference to the site owner supporting the site for development by responding to the previous Neighbourhood Plan consultation. At this present time,</p>	Delete site

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			<p>the site is not considered to be available for development.</p> <p>In addition, satisfactory vehicular access to the site of an adoptable standard is reliant on third party land (Former British Legion). It is considered that the site is not deliverable at this present time, unless it is demonstrated that the landowners are willing to cooperate.</p>	
20.	HS1	National Policy Factual	<p>GOT9 Land at Gladstone Avenue</p> <p>As previously advised, RBC has no objection in principle to the development of this site for housing, however planning permission expired on 18.07.2011 and there have been no approaches to the Borough Council to renew it. It is therefore unclear whether the site is available for development under the definition contained within the 2012 National Planning Policy Framework.</p> <p>The site is considered to be limited infilling and will also fall within the proposed green belt inset for Gotham.</p>	Notwithstanding the comment querying whether the site is available at the present time, there is the potential to allocate site within the Neighbourhood Plan. Amend text to from extant planning Permission and replace with 'Planning permission previously granted for 3 dwellings'
21.	HS1	National policy	GOT10 Glebe Land at Nottingham Road	

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			No objection in principle for the promotion of the site for rural exception development given it is supported by a housing needs survey and the recognition that the site would remain in the Green Belt. The Borough Council understands that there is a firm commitment from the landowner to the development.	Whilst reference is made in the supporting text that the site is proposed for rural exception development, it is considered that this should also be made clear in the policy.
22.	HS1	National Policy	<p>GOT12 Ashcroft Moor Lane</p> <p>The proposal lies away from the settlement edge and beyond the proposed inset boundary for Gotham within the emerging Local Plan Part 2.</p> <p>In addition, in a recent appeal decision, an Inspector concluded that even with an identified need, self/custom build plots were considered to be inappropriate development in the Green Belt (see APP/N0410/W/17/3181513).</p>	Delete site
23.	H2	Design Briefs	It is noted that draft design briefs for two of the sites are now included in an appendix. The Borough Council considers it to be an abortive exercise to require design briefs on small to medium size sites. Operationally, it would be very difficult for the Borough Council to refuse	Amend policy to refer to design and access statements rather than design briefs

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			<p>a planning application solely on the grounds that it has not complied with a design brief that has yet to be developed or finalised, in particular where a design and access statement satisfactorily demonstrates how a proposal has responded to its local context.</p> <p>It is considered that the criteria could however be used as matters that should be addressed through design and access statements.</p>	
24.	3.2-3.3, 6.1-6.2, 6.5, 6.8-6.10 H 3	Conformity and factual	<p>As previously advised, the allocation of general needs social and affordable rented properties to residents must comply with the Borough Council's allocation policy. This reflects statutory guidance on who should be given preference for social housing, setting out how social housing allocations are made to eligible people. Other than for rural exception development, this allocations policy falls outside of the remit of what a neighbourhood plan can cover as it comes under separate legislation. Whilst 'where appropriate' has been added to the policy, it is considered that a local connections test will only apply to rural exception development.</p> <p>Therefore, other than when an allocation is identified as</p>	Include supporting text identifying that the circumstances where policy H3 will apply is for rural exception developments.

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			<p>a 'rural exception site' where local people are given priority, and where the need is evidenced by a detailed housing needs survey in relation to types and tenures, all eligible applicants on the housing register, regardless of connections to the parish can bid for affordable housing in the parish. The property will be allocated to the person with the greatest housing need.</p> <p>The Greater Nottingham Strategic Housing Market Assessment (SHMA) evidence base and Housing Needs Update (2012), which evidences policy 8 of the Rushcliffe Core Strategy considers both backlog and future projected need across the whole of the borough. The policy position for affordable housing is based on this evidence and therefore any allocations sought via S106 applications should meet the wider need unless the site is restricted to a rural exceptions site scheme which should be evidenced by a parish housing needs survey.</p> <p>The updated SHMA 2012 sets out the evidence base for housing, including a model used to identify the type, tenure and size of the dwelling based on backlog and future projected need as set out in the evidence base. This will be wider than the study of dwelling size (background paper 6) which applies to Gotham</p>	

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			<p>residents only. Whilst there is a small need for flats and downsizing bungalows primarily for rent, there is a greater need for 2 and 3 bedroom properties.</p> <p>In addition, for shared ownership products, there is only a small pool of mortgage lenders that are prepared to lend money on properties where they have very restrictive local connection criteria, even if a cascade mechanism is included within any legal agreement.</p> <p>It is considered that the restriction to local people could lead to unintended consequences in terms of shared ownership properties outside of the rural exception programme where there is already a registered provider involved. Such properties will not be attractive to affordable housing providers and any developer could apply to vary a Section 106 legal agreement in order to sell them on the open market if no affordable housing provider buys them due to there being no prospective purchasers able to obtain a mortgage.</p>	
25.	E1	Factual Conformity	As previously stated, there should not be a requirement for a development brief where a criteria based policy that design and access statement should address would be sufficient. This is especially the case by referring to a site that may come forward as part of a	<p>Delete the first part of the policy.</p> <p>As previously advised, the inclusion of additional policy text in relation to reuse of existing buildings for employment would be beneficial within the policy or</p>

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			<p>future review of the neighbourhood plan.</p> <p>In addition, British Gypsum’s future operation requirements could be dependent on changes in technology and the nature of the business. Any criteria based policy should therefore strike a balance between its Green Belt location and the need to support British Gypsum as a centre of excellence as defined by policy 4 of the Rushcliffe Core Strategy.</p> <p>In addition it may be of benefit for the Neighbourhood Plan to support the reuse of any existing buildings for other employment uses subject to design, amenity, highways impacts, as British Gypsum operational requirements could contract in the future or no longer require the need for such an extensive site from an operational perspective.</p>	the supporting text.
26.	T1	Legal Conformity	Where new development requires a transport assessment, an assessment on the impacts on adjacent highway networks and Nottinghamshire County Council considers cumulative impacts in assessing developments, including developments in adjacent villages. It is also important to note that transport assessments cannot be required on developments that would generate less than 30 vehicle	<p>The limitations of what can be required when considering planning applications should inform amendments to this policy.</p> <p>The policy should be reworded so it does not place a policy requirement outside of the neighbourhood area. It may be better to refer to wider cumulative impacts rather than specific places.</p>

	Policy/ Paragraph	Basic condition test/ Factual correction	Comment	Suggested amendment
			<p>trips per hour.</p> <p>As previously stated, Traffic Regulation Orders are determined and regulated by the County Council as highways authority, and are separate legislation. It is considered that such measures fall beyond the scope of what can be required in determining planning applications. It is noted that reference to traffic regulation orders remains within the policy, with the addition of the term ‘other means’</p> <p>In determining planning applications, traffic calming can only be provided where Nottinghamshire County Council as Highways Authority has requested such measures in order to mitigate against the impact of new development.</p> <p>T1 second paragraph falls outside the scope of the neighbourhood plan as it refers to assessing planning applications outside of the designated neighbourhood area (East Leake and South of Clifton)</p> <p>T2 falls outside of the scope of the Neighbourhood Plan as it refers to links beyond the designated neighbourhood area.</p>	<p>It would be of benefit to cite examples of what ‘other means’ could be employed. This would be of benefit to applicants and also to the decision taker.</p>

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27.	VC1 and supporting text	Factual Legal Conformity	<p>The Plan refers to strict policies will be applied. It is the purpose of the Neighbourhood Plan to contain what the strict policy is. RBC previously advised that as the draft</p> <p>Neighbourhood Plan does not define in any great detail what the existing character of the Square to actually be, this policy is not underpinned by any context and is weak. This could potentially lead to disagreement between stakeholders, the local planning authority and the Parish Council when considering planning applications. It could lead to inconsistency in application of the policy when determining planning applications.</p> <p>In response the following has been added within the supporting text of the submission draft: <i>“The exact planning character of the centre is difficult to define and will develop as opportunities for development and planning applications occur”</i></p> <p>This additional text does not resolve RBC’s concerns regarding the lack of descriptive details on the character of the centre (against which developments could be assessed). Indeed, developing character as the development occurs provides no detail at all and would allow character to change, which is at odds with</p>	Further work or more detailed wording to support policy VC1 is required. Existing character should be defined in supporting text, otherwise it remains unimplementable.

	Policy/ Paragraph	Basic condition test/ Factual correction	Comment	Suggested amendment
			<p>the intention of the policy. The Borough Council remains concerned that the policy in its current form does not appear to be implementable.</p> <p>The policy contains reference to the British Legion site As previously advised within RBC's representation on the draft Neighbourhood Plan, there is limited need for development briefs where a design and access statement would address the issues identified. In addition, it is unclear how last sentence of this part of the policy can apply in the determination of planning applications. Is this for temporary planning permissions for alternative uses to housing?</p> <p>The third paragraph outlines environmental improvements where the Parish Council will seek funding. It is unclear whether this applies to new development. In all events the threshold where planning obligations can be sought is 10 dwellings, this should also be made clear in the policy.</p>	
28.	FL1, FL2 and 10.2	Legal Factual	As previously advised within RBC's representation on the draft Neighbourhood Plan, there is limited need for development briefs where a design and access statement and site specific flood risk assessment	<p>Consideration should be given to reworking the policy requirement in line with the comments made.</p> <p>In relation to FL2, it could be phrased that where</p>

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			<p>demonstrates that flood risk issues can be mitigated.</p> <p>In terms of flood risk, none of the suggested allocations within Gotham are at risk of flooding from watercourses. Some of the sites have areas that have been subjected to past incidents of surface water flooding which we would usually expect a flood risk assessment to demonstrate that any risk can be mitigated through measures such as Sustainable Drainage Systems or by providing adequate means of discharging to watercourses where it will not increase the risk of flooding elsewhere.</p> <p>Finally, whilst the Neighbourhood is prepared on behalf of the Parish Council, it is for the Borough Council to use it in the determination of planning applications. The policy should therefore not contain the wording in relation '<i>to the Parish Council will seek.</i>' In addition, even if there are potential issues with sewerage capacity resulting from new development, Severn Trent has a legal obligation to provide for water and sewerage capacity for new development.</p>	<p>required, applications for development shall be accompanied with documentation demonstrating that there will be no adverse impact on the existing sewage capacity of the village or specify the measures will be undertaken to ensure that its impacts can be adequately addressed.</p>
29.	F1	Legal Conformity	<p>There are specific legal requirements when it comes to the allocation of funding the Community Infrastructure Levy (CIL). Where a neighbourhood plan is in place</p>	

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			<p>then 25% of the funding can be claimed by parish councils for infrastructure to support new development, whilst the remaining funding is required to go towards strategic infrastructure as defined by a Regulation 123 list which is set by the Borough Council. It is noted that the policy now makes reference to Policy 19 of the Core Strategy, however the policy as drafted still remains vague on the types of infrastructure that would be funded through Section 106 legal agreements and CIL.</p> <p>As any contributions that are sought should meet the three legal tests as set out in Regulation 122 of the CIL regulations which states: (2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is— (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.</p> <p>Therefore where the Borough Council seeks to secure planning contributions, it needs to be satisfied that any contribution meets these three tests.</p>	

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			Whilst there have been some adjustment to the text of the policy, it is considered not to be implementable as presently worded, nor legally compliant in terms of CIL Regulations. The usual role of policies within neighbourhood plans is for use in the determination of planning applications. However, Policy F1 does not perform such a role, but, instead, attempts to direct the Borough Council's management of CIL funding, which is beyond the scope of any neighbourhood plan.	
30.	Appendix 1	Factual	<p>The following observations are offered:</p> <ul style="list-style-type: none"> • Whilst the brief is at draft stage, it does not follow the criteria set in policy H2. • Mitigation measures refer to land outside of the proposed housing site therefore it would be extremely difficult to tie up in a Section 106 legal agreement as all relevant landowners have to sign up to these agreements. • Has the statement retention of hedgerows had regard to the health and quality of the hedgerows or highway matters? 	
31.	Appendix 2	Factual	<ul style="list-style-type: none"> • The following observations are offered: Whilst the brief is at draft stage, it does not follow the criteria set in policy H2. • In terms of the balancing pond, as the site is 	

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			<p>relatively flat, its location has to be wherever water naturally drains, which may not be this corner of the site.</p> <ul style="list-style-type: none"> • There is little natural surveillance of the proposed footpath • The mix and tenure should not be rigid in case of changing housing need if the housing needs survey requires updating in support of a planning application. 	