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Chichester Local Plan Examination statement

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Matter 1 - Legal and procedural requirements

September 2014

# Chichester Local Plan Examination statement

## Matter 1 - Legal and procedural requirements

This statement has been produced as part of the examination of the Chichester Local Plan. It answers the Inspector's questions relating to matter 1.

Any queries about the report should be sent to the programme officer:

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## **1. Has the Plan been prepared in accordance with the Local Development Scheme?**

1.1. The Plan has been prepared in accordance with the Local Development Scheme (CD-94). The LDS has been revised regularly in order to provide the most up to date timetable for the stages of Plan preparation and public consultation.

1.2. The LDS provides a timetable for the production of forthcoming Development Plan Documents and other planning policy documents.

## **2. Has the plan been prepared in compliance with the Statement of Community Involvement?**

2.1. Yes, the Plan has been prepared in compliance with the Statement of Community Involvement (CD-08). The Statement of Consultation (CD-06) sets out the methods of consultation and engagement used at each stage of Plan preparation, and those consulted at each stage.

2.2. Earlier stages of consultation and engagement were undertaken in accordance with the first SCI, produced in November 2009. The revised SCI (CD-08) was adopted in January 2013; all subsequent consultation and engagement were undertaken in accordance with this document.

## **3. Has the Plan had regard to the Sustainable Community Strategy?**

3.1. Yes, the Local Plan vision and objectives are derived from the Sustainable Community Strategy (CD-96). The Local Plan embodies the themes set out in the SCS. The SCS sets out many of the challenges and opportunities to be addressed by the Local Plan. The Plan will provide one of the primary means of delivering the spatial elements of the SCS.

## **4. Has the Plan been subject to Sustainability Appraisal (SA)?**

- **Have all reasonable alternatives been considered?**
- **Has the SA been updated as the Plan has developed to take account of changing circumstances?**

4.1. Yes, the submission version of the Sustainability Appraisal Report (CD-03) sets out the stages of Plan and SA preparation in Table 1. A wide variety of options for housing numbers and locations were considered at stages 2 and 3. These were then narrowed down for preferred option stage.

- 4.2. The options examined in the Draft Local Plan: Key Policies – Preferred Approach (CD-98) were developed in part through early face to face meetings between the planning policies officers who were to draft policies and the SA team. The results of these discussions were then transferred to a spread-sheet record of early options considered. The SA process increased the range of options explored and discussed at this early stage.
- 4.3. In addition, for some policies, planning policy officers themselves kept a pro-forma record of options considered, this information was also added to the spread-sheet record. From there, some similar options were combined and then un-implementable and unfeasible options were ruled out and not considered further.
- 4.4. Full records of this process have been kept and form part of the background evidence for the SA report. The remaining options were assessed and the results of that process are presented in subsequent SA reports.
- 4.5. The main cumulative impacts of the Chichester Local Plan: Key Policies Pre-submission (CD-01) as a whole are predicted to be:
- Provide more housing
  - Provide more employment sites and community facilities
  - Stimulate and support economic growth
  - Loss of habitat / biodiversity
  - Increased use of water resources
  - In combination impact on Solent Maritime Special Area of Conservation (unless mitigated)
  - Increase in traffic and requirements for highways infrastructure
  - Expansion of settlements within the landscape
- 4.6. These predicted impacts will be monitored through indicators in Appendix 7 Monitoring Framework of the Chichester Local Plan: Key Policies Pre-submission (CD-01).
- 4.7. The Draft Local Plan: Key Policies – Preferred Approach (CD-98) chooses one option for each policy area based on: the options considered in the early stages of plan development; the options assessed in the SA report; and on other evidence and background studies. However for each policy area changes between options and changes to options to improve any negative impacts (called mitigation) were both possible. Mitigation has largely occurred through minor changes to policy wording in the early stages of the SA process, and further recommendations for mitigation over and above the options presented here are not included the later SA stages.

4.8. As above, table 1 of the Sustainability Appraisal Report (CD-03) sets out how four different versions of the Chichester Local Plan: Key Policies Pre-submission (CD-01) have been appraised and put out to public consultation with an SA report between 2010 and 2013. Significant changes in circumstances have occurred in that time. For instance to the feasibility of the various strategic locations due to changing evidence base on water quality issues and recreational disturbance impacts (see Section 3 of the SA report for the detailed narrative).

4.9. The transfer of part of the District to the jurisdiction of the South Downs National Park Authority led the alterations for the options for the north of the Plan Area. Other policy options have been updated with changing circumstances, for example the introduction of Policy 53 (District Canals) relatively late in the process.

## **5. Has the Plan been prepared in accordance with the Habitats Directive?**

5.1. Yes, the Chichester Local Plan: Key Policies 2014-2029 (CD-01) has been prepared in accordance with the Article 6 of the EC Habitats Directive 1992 and Conservation of Habitats and Species Regulations 2010 (as amended). A Habitats Regulations Assessment (HRA) was undertaken of each Plan document throughout the local plan process.

5.2. Concerns were expressed by Natural England about the potential cumulative impact of development on the Solent Special Protection Area/Special Area of Conservation. The authorities combined resources to commission research in to the issue. The research concluded that there would be a likely significant effect without mitigation. An interim strategic mitigation scheme has been adopted whilst the full scheme is developed. The strategic scheme will in most cases negate the need for the Appropriate Assessment of individual proposals for development and provides a strategic solution to allow any potential harm from development to be mitigated.

5.3. Following the development of the strategic approach to mitigate potential harm, the Plan was able to be reassessed and likely significant effects screened out as stated in paragraph 4.5.10 of the Habitats Regulations Assessment (CD-04).

5.4. The strategic approach in the plan has subsequently been reinforced with references within individual site allocation policies as follows:

- Policy 15 14<sup>th</sup> bullet point “Be planned with special regard to mitigate potential impacts of recreational disturbance including contributing to any strategic access management issues.” Work on masterplanning of the site will provide more specific detail.

- Policy 20 6<sup>th</sup> bullet point “... special regard to the need to mitigate potential impacts of recreational disturbance”. The Southbourne Neighbourhood Plan will provide more specific detail.
- Policy 24 5<sup>th</sup> bullet point “... special regard to the need to mitigate potential impacts of recreational disturbance”. The East Wittering and Bracklesham Neighbourhood Plan or Site Allocation DPD will provide more specific detail.

5.5. The inclusion of Policies 50 and Policy 51 in the Chichester Local Plan: Key Policies 2014-2029 (CD-01) specifically addresses the Habitats Regulations Assessment issues.

5.6. Concerns were expressed by Natural England about nitrogen deposition in the Solent Special Protection Area/Special Area of Conservation and that this would be as a result of increased traffic generated by development.

5.7. The growth proposed in the Plan will generate limited scale traffic growth within 200m of European sites and beyond 200m the effects from this source diminish to the equivalent of background levels (Laxen & Wilson (2002<sup>1</sup>), Highways Agency (2007<sup>2</sup>)). Development within the parishes of Southbourne, Chidham and Hambrook, Bosham and Fishbourne is likely to add to traffic on the A259 which in places is within 200m of the European sites. However, a similar situation with more intensive traffic generation occurs in South Hampshire.

5.8. As stated in paragraph 4.5.21 of the Habitat Regulations Assessment (CD-04), the analysis from the AEA Technology 2010 Road Transport Emissions Impacts on Nature Conservation Sites indicated that traffic associated with Partnership for Urban South Hampshire (PUSH) area would have the greatest impact on Moorgreen Meadows SSSI, Langstone Harbour SSSI, Portsdown SSSI, Downend Chalk Pit SSSI, Lower Test Valley SSSI and River Itchen SSSI. The modelling assessed the impact of 80,000 new dwellings in the PUSH area.

5.9. Havant Borough Council's Adopted Core Strategy (March 2011) addresses air quality concerns in policies CS13 Green Infrastructure and CS20 Transport and Access Strategy<sup>3</sup>.

5.10. Paragraph 5.5 of the Habitats Regulations Assessment for the Havant Core Strategy (March 2010) concluded that, subject to the measures outlined being successfully incorporated and implemented together with the plan's

<sup>1</sup> [A New Approach to Deriving NO<sub>2</sub> from NO<sub>x</sub> for Air Quality Assessments of Roads](#) Figure 3, Page 12

<sup>2</sup> [Design Manual for Roads and Bridges Summary 2007](#) Annex D, paragraph D1.1 page 64

<sup>3</sup> [Havant Borough Council Adopted Core Strategy March 2011](#)

current transport strategy, adverse effects connected with air pollution will be satisfactorily avoided and reduced and the Core Strategy should proceed to adoption without further tests under the Habitat Regulations<sup>4</sup>. It also states that an assessment of the in combination effects is not required because the effects of the Core Strategy have been removed.

- 5.11. Paragraph 4.5.5 of the Habitats Regulations Assessment of the Havant Borough Local Plan (Allocations) document states that "... direct air quality impacts are not expected to arise from the plan since the Local Plan (Core Strategy) and Allocations both include measures to mitigate the effects of air pollution"<sup>5</sup>. Paragraph 4.5.7 concludes that "effects arising in conjunction with air quality are not discussed further and with the mitigation being presented by policies is not considered to represent a likely significant impact to European sites."
- 5.12. Although stand alone and in combination air quality concerns are raised in 4.5.18 of the Habitats Regulations Assessment (CD-04), paragraph 4.5.22 acknowledges that traffic generated in the Plan may make a small additional contribution and operate in combination with Havant. However, paragraph 4.5.27 acknowledges the Chichester Local Plan: Key Policies 2014-2029 (CD-01) contains positive measures that aim to mitigate or avoid the likelihood of significant adverse effects from reduced air quality through policies 8, 10, 13, 14, 15 and 39.
- 5.13. Appendix 7 (Monitoring Framework) of the Chichester Local Plan: Key Policies 2014-2029 (CD-01) will assess whether the policies are achieving the objectives and intended outcomes, whether they have unintended consequences and if they are relevant or require a review.

## **6. Have all the procedural requirements for publicity been met?**

- 6.1. Yes, the Statement of Consultation (CD-06) demonstrates how the procedural requirements for publicity at the regulation 19 stage have been met. Copies of the proposed submission documents and the Statement of Representations Procedure were made available on the Council's website<sup>6</sup>. A public notice was placed in the Chichester Observer, and a press release sent to a wide variety of media organisations, as stated in the Statement of Consultation.

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<sup>4</sup> [Habitats Regulations Assessment for the Havant Core Strategy March 2010](#)

<sup>5</sup> [Habitats Regulations Assessment of the Havant Borough Local Plan \(Allocations\) September 2013](#)

<sup>6</sup> [Statement of Representations Procedure](#)

6.2. The Statement of Representations Procedure set out details of the representation period, where and when documents could be inspected and how representations could be made. This was sent via email and post to all consultees registered on the Local Plan database. This includes each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 18(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012<sup>7</sup>.

6.3. On 30 May 2014 a Notice of Submission was sent via email and post to all consultees on the Local Plan database, stating that the Local Plan had been submitted to the Secretary of State for independent examination<sup>8</sup>. The Notice of Submission states that the submission documents are available for inspection, and the places and times at which they can be inspected. The notice was also placed in the Chichester Observer.

**7. Has the Council submitted robust evidence to demonstrate that it has met the Duty to Cooperate?**

- **Has the Council taken all reasonable steps in seeking to meet development needs that cannot be met in the District?**
- **Has the Council taken all reasonable steps in engaging with the South Downs National Park (SDNP) Authority to establish the extent to which meeting development needs can be met in the part of the District which lies within the SDNP?**

7.1. The Duty to Cooperate Statement (CD-14) summarises the strategic planning activities of the Council and the outcomes in terms of the Local Plan. The DtC Statement sets out the activities that have been carried out on a joint basis with other Local Planning Authorities in the Coastal West Sussex and Greater Brighton (CWS&GB) area, as part of the Coastal West Sussex Strategic Planning Board. It covers on-going work between the CWS&GB authorities and those in the wider area to support strategic priorities, in particular housing. The DtC Statement also focuses on strategic planning activities which are more specifically related to Chichester District Council and have not been part of the CWS&GB work programme.

7.2. The Housing Study (Duty to Cooperate - Coastal West Sussex) (CD-49a and CD-49b) undertaken on behalf of the CWS&GB authorities concluded that the area is highly constrained due to the fact that it is tightly bound by the English Channel and the South Downs National Park, and meeting the housing needs of the area will become increasingly challenging. This is recognised in the Coastal West Sussex and Greater Brighton Local Strategic Statement

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<sup>7</sup> [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)

<sup>8</sup> [Notice of Submission](#)

(CD-13), and the CWS&GB authorities are working together through their own local plans and strategies to meet their objectively assessed needs as far as possible in the short to medium term. The CWS&GB authorities are also working closely with neighbouring authorities in the wider sub-region to consider what the longer term options are for meeting development needs. This work is on-going and is governed by a clear commitment from all relevant authorities through an agreed Memorandum of Understanding<sup>9</sup>.

7.3. Annex 7 of the DtC Statement sets out a summary of strategic cooperation with neighbouring authorities. Each authority has stated that they are unable to assist with meeting any unmet housing need in the Chichester Local Plan Area, with the exception of Horsham District Council, which has some capacity to assist neighbouring authorities with unmet housing need. Horsham District Council has stated that Chichester District Council would need to demonstrate where the unmet need was derived from, and articulate how Horsham could help meet those needs, in terms of the type and location of housing.

7.4. The Council has had regular meetings with the South Downs National Park Authority to discuss the extent to which development needs can be met in the SDNP. Housing delivery over the past decade has averaged around 70 dwellings per annum (dpa) in the part of Chichester District within the National Park. At a meeting on 5 February 2013 the SDNPA considered the assumption of housing delivery at 70 dpa within the National Park to be a reasonable estimate<sup>10</sup>. At that time it was too early for the SDNPA to say what its housing requirement would be in the part of Chichester District within the National Park, as the SDNPA was at a very early stage of plan preparation.

7.5. The SDNPA made representations on the Local Plan: Key Policies Pre-submission stating that the shortfall in objectively assessed need will not be able to be made up within the SDNP.

7.6. At a DtC meeting on 12 March 2014, the SDNPA stated that the assumption made in the emerging Chichester Local Plan: Key Policies (CD-01) of 70 dpa being delivered in the SDNPA did not seem unreasonable<sup>11</sup>. However, the SDNPA could not sign up to this figure as it would require testing through their local plan process. Until the SDNPA plan is further advanced it is not possible to identify a more specific housing figure for delivery within the Chichester District part of the National Park.

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<sup>9</sup> [CWS&GB Strategic Planning Board Memorandum of Understanding](#)

<sup>10</sup> [Duty to Cooperate Statement](#) (CD-14): Annex 7, Page 43

<sup>11</sup> [Duty to Cooperate Statement](#) (CD-14): Annex 7, Page 43