

Plaistow and Ifold Parish Neighbourhood Plan Health Check Report

April 2018

Catherine Loveday BSc (Hons) MSc MRTPI

Summary of Recommendations

- The Plaistow and Ifold Parish Neighbourhood Plan (NP/the Plan) includes a proposed allocation at Policy H1 for a housing site (Land opposite The Green, Common House Road, Plaistow). Policy PL1 of the Chichester District Council's (CDC) emerging Site Allocation Development Plan Document (SADPD) proposes a different site, Land North of Little Springfield Farm (Ifold). The Main Modifications consultation on the SADPD closed on the 18th March 2018 and the Main Modifications consultation document confirms the inclusion of the Land North of Little Springfield Farm (Ifold). In our experience, and without prejudice to the outcome of the SADPD examination, this is a strong indication that the SADPD proposed site will be found to be a sound allocation. Paragraphs 1.14 – 1.15 of the NP, state that should the SADPD allocation be found sound, then the Parish Council would require that Policy H1 is withdrawn from the NP and that the revised NP would undergo a further consultation under Regulation 14. We consider that this is a sensible and pragmatic approach which would avoid any conflict with the emerging and eventually adopted Development Plan. However, this approach is not without some attendant risk – see comments on Part 3 below made in relation to paragraph 1.14 of the NP.
- If the SADPD allocation is part of the adopted SADPD, then the aim of retaining the current settlement boundary will be contrary to the approach in the SADPD. Paragraph 1.48 of the SADPD says: *The following sections set out for each of the parishes the DPD is planning for, site specific proposals to the meet the requirements of the Chichester Local Plan. For each site allocation there is a policy setting out the criteria that subsequent planning applications will need to address. The boundaries of allocated sites, which are all greenfield sites beyond existing Settlement Boundaries, will be integrated into a revised Settlement Boundary when the DPD is adopted and shown on the Policies Map.* Therefore, references throughout the Plan to the retention of the current settlement boundary will need amending to reflect the changed boundary resulting from this allocation.
- The policies and aims of the Plan would benefit from being more clearly distinguished and numbered in a different format to ensure clarity for users and the examiner.
- There may be issues with the fact that the Plan sets out local criteria for the allocation of affordable housing. The process of allocating social housing is normally considered a matter for housing management, not planning policy. See below for detailed comment.
- **Important note:** This health check has assessed the Plan against the extant National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), published in 2012. Government has published consultations on both revisions to, and proposed revised wording of, the current NPPF and PPG on 6 March 2018 (updated 9 March 2018)¹. The transitional arrangements envisage that the current NPPF will apply to the examining of plans which are submitted on or before the date which is six months after the date of the publication of the new NPPF. The consultations close on 10 May 2018, so a reasonable working assumption is that should the new NPPF be published in mid June 2018 at the earliest,

¹ View the documents at: <https://www.gov.uk/government/consultations/draft-revised-national-planning-policy-framework>

it could apply to a plan examination commencing in mid December 2018. Whilst it remains theoretically possible for this Plan to reach examination stage before the end of this year, if it does not, it will need to be reappraised against the stated policy in the final revised NPPF and PPG when published.

Cat Loveday

3 April 2018

Part 1 – Process

	Criteria	Source	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	Basic Conditions Statement	Yes. The Basic Conditions Statement (BCS) refers to the date of designation and details the process of the Plan in light of the regulations. The Neighbourhood Plan Area covers the whole of Plaistow and Ifold Parish. The Plan relates to one Neighbourhood Area. The BCS includes confirmation that the Plan has been prepared and submitted by a Qualifying Body (QB) and designated by CDC and the South Downs National Park Authority (SDNPA).
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	N/A	Not applicable. Plaistow and Ifold has a Parish Council.
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	Consultation Statement	The Consultation Statement (CS) provides no indication that pre-submission consultation has not been carried out in line with the Regulations and has been appropriate in line with the scale, coverage and complexity of the Plan area.
1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?	Consultation Statement	Yes, The CS and its appendices demonstrate that the community have been engaged in a proportionate manner, having regard to the advice in the PPG on plan preparation and engagement.
1.5	Are arrangements in place for an independent examiner to be appointed?	No evidence	There is no information provided on this. Whilst the QB has not yet reached submission of the Plan to CDC under Regulation 15 of the 2012 Regulations, it is advised that the QB begin discussing what the process will be for identifying a suitable independent examiner with CDC. Whilst the general approach is to assess the resumes/CVs provided by prospective examiners, the QB might also find it helpful in

			coming to a decision by reading examples of examiner reports on other neighbourhood plans.
1.6	Are discussions taking place with the electoral services team on holding the referendum?	No evidence	There is no information provided on this. The QB should engage with CDC to ascertain this information.
1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?	No evidence	There is no information provided on this. The QB should engage with CDC to ascertain this information.
1.8	Has an SEA screening been carried out by the LPA?	Plaistow & Ifold Parish Neighbourhood Development Plan Strategic Environmental Assessment (SEA) Opinion Screening Determination (May 2017)	Yes. As a result of this determination that a formal Strategic Environmental Assessment (SEA) was required, AECOM has produced a Strategic Environmental Assessment for the Plaistow and Ifold Parish Neighbourhood Plan (March 2018), which concludes significant positive effects within the themes of landscape & the historic environment, population & community and health & wellbeing as well as beneficial effects across all other themes.
1.9	Has an HRA screening been carried out by the LPA?	Basic Conditions Statement	The BCS states at paragraph 5.6 that discussions with CDC ruled out the requirement for a Habitats Regulation Assessment (HRA). It is advisable to seek a formal HRA screening opinion from CDC to confirm that this is the case. If this has been undertaken, it should be referenced in the BCS.

Part 2 – Content

	Criteria	Source	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	NP	In most cases. Policies have a rationale and accompanying justification, referencing the evidence base and policies from the NPPF and local development plan. Further justification is needed in the case of a few policies. For example, Policies Ci2 and EE3 require amendments - see detailed comments below.
2.2	Is it clear which parts of the draft plan form the 'neighbourhood plan proposal' (i.e. the <i>neighbourhood development plan</i>) under the Localism Act, subject to the independent examination, and which parts do not form part of the 'plan proposal', and would not be tested by the independent examination?	NP	In most cases. The Plan is well structured, however, it is important that a clearer distinction is made between policies and aims by revising the numbering system. Some elements of the Plan could be streamlined, for instance by removing the discussion around site allocations and the conformity issues with the Local Plan, which are fully outlined in the BCS. PPG Reference ID: 41-004-20170728 suggests that Aims/Community Aspirations are often best expressed as an annex to the Plan. Has the QB considered this alternative approach?
2.3	Are there any obvious conflicts with the NPPF?	NP	No. The Basic Conditions Statement (BCS) outlines general conformity with the NPPF.
2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	NP/BCS	The Plan states the contribution it makes to sustainable development and the consideration of the environmental, social and economic factors is evident throughout the NP. It would be useful if the key Plan objectives were linked to sustainable development in an implicit way, to ensure that it can be observed by the examiner.
2.5	Are there any issues around compatibility with human rights or EU obligations?	NP/BCS section 6	The NP and supporting documents do not raise any discernible issues with regards to human rights. However, the BCS should also contain confirmation that CDC is satisfied that the NP does not breach, and is compatible with, EU Obligations and Convention rights (within the meaning of the Human Rights Act 1998).
2.6	Does the plan avoid dealing with excluded development including	NP/BCS	The NP does not deal with excluded development as stated in the Basic Conditions Statement.

	nationally significant infrastructure, waste and minerals?		
2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	NP/BCS	The Plan states that it has been assessed against CDC's Local Development Plan. The NP states that policies are mainly in compliance with the existing and emerging policies. Overall, the NP looks to take a locally distinctive approach and adds detail to the strategic policies outlined in the Development Plan for the area. However, there are some specific instances where general conformity is not demonstrated. See comments on individual policies below.
2.8	Are there any obvious errors in the plan?	NP	There are some minor errors in the Plan including in the numbering of policies and aims - see detailed comments below.
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	NP	The policies are mainly clear and relate to the development and use of land. Suggestions have been made for the re-wording of policies in some cases, to ensure that the policies are Development Management and delivery focussed. Policies need to be framed by an understanding of the delivery mechanisms that planning can use. Overall, community aspirations are at the heart of the Plan and the policies are reflective of the outcomes of the consultation process.

Part 3 – Detailed Comments

NP Draft

Paragraph 1.5: Change ‘If agreed’ to ‘Once agreed by a majority’.

Paragraph 1.6: delete ‘be recommended for’, replace with ‘proceed to’.

Paragraph 1.12: This paragraph is likely to need amending once the SADPD is adopted.

Paragraph 1.14: The withdrawal of Policy H1 in the event that the SADPD allocation is found sound is not without risk. If the site has been identified as suitable and preferred it would be difficult to resist a planning application for this site where the evidence base has been presented in support of it and this is in the public domain. Should the QB proceed as is indicated in paragraph 1.14 – 1.15, it will be necessary to provide extensive and conclusive evidence as to why the no further allocations are appropriate over the Plan period.

Paragraph 2.6: Settlement boundary – in the event that the SADPD allocation is found sound, then the settlement boundary will change. See more detailed comments below.

Paragraph 2.23: This is too vague and there is room for challenge here on the figure of ‘about 10’. Maybe change to ‘an indicative housing number of 10’.

Paragraph 3.3: ‘Presumption in favour of development’ is misused here. Adapt this section to more accurately represent the role of the settlement boundary in restricting development beyond its limits.

MAP 2: What is the intended status of this map? It appears to be from appendix 2 of the Plaistow Conservation Area Character Appraisal with its attendant Management Proposals of May 2013.

Policy EH1 – No changes are recommended. The conformity references are very useful here. It should be considered how these will be updated as plans change.

Policy EH2 – This is essentially effective as drafted but it should be made clear that the benefits referred to are in line with the NPPF’s three dimensions to sustainable development: economic, social as well as environmental.

MAP 3: This map needs a suitable key to show the designations of the shaded areas clearly.

Paragraph 4.22: Add reference to the proposed NPPF revision to footnote 7, at page 9 of the NPPF Consultation proposals².

Policy EH3 – Define ‘good arboricultural value’. Otherwise the policy wording meets the Basic Conditions. In paragraph 4.25, the reference to NPPF paragraphs 69-78 is incorrect. Replace ‘paragraphs 69-78’ with ‘paragraphs 76-78’.

Policy EH4 – The second sentence which currently reads, ‘These areas are to be protected through management of development, consistent with Green Belt policy’ should be replaced with ‘Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts’, for accuracy. The maps should be referred to by number in sentence one.

The following comments on some of the specific proposed Local Green Space (LGS) designations are all made without prejudice to the forthcoming examination of the NP:

We note that one of the proposed LGS is Ancient Woodland in the Centre of Ifold. PPG Reference ID: 37-011-20140306 does note that *If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space*. We also note that the Plaistow Multi-Use Games Outdoor Area is described as ‘a hard court, floodlit, recreational games area’. As such it is perhaps difficult to reconcile this with a green space. The QB might consider whether LGS designation is suitable: the site could, for example, be protected as a sports and recreation facility.

We further note that Land at Nell Ball Hill is subject to an Article 4 Direction. Again, we would cite PPG Reference ID: 37-011-20140306. Furthermore, we gather that the owner of the land in question opposes the designation on the grounds that the land has no recreational or historic value and is not a habitat for rare and protected wildlife species. We appreciate that PPG Reference ID: 37-019-20140306 is clear that an LGS need not be in public ownership and we also note that paragraph 6.5 of the CS states that the QB will leave the decision to allocate to the eventual Examiner. We would, however, advise that the QB revisits the reason for designation as set out in Appendix 5 to ensure that it is wholly accurate. Similarly, we note that the owners of the Foxfields Football Field also object to the proposed designation of this piece of land.

A final point about the proposed LGS designations in Plaistow village. The NPPF (paragraph 77) is clear that the LGS designation will not be appropriate for most green areas or open space and PPG Reference ID: 37-007-20140306 notes that LGSs should not be used to undermine development needs. Map 5 of

² View at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685288/NPPF_Consultation.pdf

the NP shows that that the proposed LGS designations in Plaistow surround a large part of the village. With the above guidance in mind, it is imperative that the NP's justification for these designations is robust and watertight.

MAP 6: The labelling is misplaced in relation to the green space.

Paragraph 4.29: The use of residential enclaves here is incorrect and unclear, consider changing to 'residential areas'.

Policy EH5 – Add ', where possible' after 'sensors'. This policy is onerous and prescriptive, however if details are required the installation is less of a concern than orientation and height along with operating hours. Therefore, this should be stated more clearly in paragraph 2 of the policy.

The link to paragraph 118 of the NPPF is incorrect and should be replaced by a reference to NPPF paragraph 125.

AIM – EH1 - The numbering of aims should be made distinct from that of policies to ensure clarity between which elements will be used to determine planning applications and those that will not. Suggest having a separate numbering system e.g. Aim A1.

Policy EH6 – This is too onerous. Also, the policy and justification do not give a sufficient definition of 'exceptional circumstances'. Remove or change 'there are exceptional circumstances' to 'they are'.

Paragraph 5.12: Reference to 'excessive windfall development' should be removed and changed to 'additional new development'. This type of statement affects the tone of the Plan and undermines its ability to demonstrate it seeks to contribute to sustainable development.

Consistency in the policy numbering would also help to distinguish policies from aims.

Policy Ci1 – Consider changing 'hard surface run off' to 'run off as a result of proposed hard surfacing' as the former is slightly unclear. The reference to 'utility infrastructure' should be clarified within the policy or defined in the supporting justification.

The Policy states that adequate legal obligations and/or planning conditions must be put in place to ensure that private SuDS are maintained in perpetuity. We are not certain this is practicable or legally reasonable.

Policy Ci2 – the phrase 'at the time of development' is unclear. Change to 'prior to commencement of development'. It should also be considered if this would be done via condition and if so could this be 'prior to occupation of the first dwelling'. The second part of the policy is fine, providing that the other policies referred to are watertight in protecting the landscape and local environment etc.

The numbering of the aims Ci1-3 should be made very clearly distinct from the policy numbering to ensure that the two are not confused. Aim Ci3 should be re-worded as an aim e.g. add 'The Parish Council will encourage...' as with the previous aims.

Aim Ci5 – Public Open Space is within the remit of a land use policy therefore a policy could be inserted that asked for appropriate provision of on and off site public open space contributions.

Paragraph 6.1: Reference to 'about 10 dwellings' leaves the housing and site allocation elements of the NP open to question and interpretation. The Adopted plan refers to 10 units and the SADPD says in **10.1 Policy 5 of the Chichester Local Plan provides an indicative housing number of 10**. Suggest changing 'about 10' to 'an indicative housing number of 10'.

Policy H1 – Add 'all of' before 'following criteria'.

Point 3 – 'both in terms of mass and bulk' revise to 'in terms of scale, height and massing'.

Points 3 and 4 – Change 'has' to 'includes'.

Paragraph 6.20: The aim to retain the existing settlement boundary will not be possible if the SADPD allocation is part of the adopted SADPD. If this is the case, the aim of retaining the current settlement boundary will be contrary to the approach in the SADPD. Paragraph 1.48 of the SADPD says:

The following sections set out for each of the parishes the DPD is planning for, site specific proposals to meet the requirements of the Chichester Local Plan. For each site allocation there is a policy setting out the criteria that subsequent planning applications will need to address. The boundaries of allocated sites, which are all greenfield sites beyond existing Settlement Boundaries, will be integrated into a revised Settlement Boundary when the DPD is adopted and shown on the Policies Map.

Therefore, references to the retention of the current settlement boundary will need to reflect the changed boundary resulting from this allocation. Map 9 will also need to be adjusted. Any other references to the retention of the existing boundary in the NP will also need to be adjusted.

Paragraph 6.22: The inclusion of this in the justification is unclear. Further clarification is needed, or the paragraph should be removed.

Paragraph 6.26: It is critical to explain why this area is different and should be treated differently from the rest of the Local Plan area.

Policy H2 – Opening sentence – The reference to Map 8 appears incorrect, it should be Map 9.

Policy H2 – Point 5 – This needs to be clarified or removed. Advise removing or altering to ‘the density of development is in keeping with the surrounding area’.

Policy H3 – We note that at Regulation 14 CDC objected to the local connections criteria included in this policy as it was contrary to CDC’s Allocation Scheme. We believe that the adjustment made to the policy will still be contrary to this scheme. It seems that the policy is still seeking to introduce a local connection criteria on affordable dwellings, secured through Section 106 agreements.

The normal usage for local connection criteria in relation to affordable housing relates to affordable housing exception sites. The allocation of social housing is a function of a housing authority under Part 6 of the Housing Act 1996 (as amended) (‘the 1996 Act’). Statutory guidance is provided in *Allocation of accommodation: guidance for local housing authorities in England (2012)* and, *Providing social housing for local people (2013)*³. The latter document indicates that it is in addition to the former.

Paragraph 2.5 of the 2012 document explains that s.166A of the 1996 Act ensures certain categories are given reasonable preference. It states that authorities must have regard to their homelessness and tenancy strategies when framing their allocation scheme. In paragraph 3.20, it states that *‘in framing their qualification criteria, authorities will need to have regard to their duties under the equalities legislation, as well as the requirement in s.166A(3) to give overall priority for an allocation to people in the reasonable preference category’*.

It also indicates (paragraph 3.21) that housing authorities should avoid setting criteria which disqualify groups of people whose members are likely to be accorded reasonable preference for social housing, for example, those who are homeless or occupying insanitary or overcrowded accommodation or need to move on medical grounds, etc.

The process of allocating social housing is normally considered a matter for housing management, not planning policy. However, there are examples where examiners have been content to agree the inclusion of neighbourhood plan policies to deal with the allocation of social housing. In practical terms, we suggest CDC be further consulted as the relevant local housing authority to ascertain whether the policy can be drafted in such a way as to be in accordance with their approach to the allocation of social housing. If CDC is supportive of your policy, this will go some way to mitigating the risk that an Examiner is minded to taking a strict approach to this issue.

Paragraph 6.33: There needs to be adequate evidential justification provided to justify the densities, in view of the departure from the approach taken by the local authority.

³ View the guidance documents at: <https://www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england>

Policy H4 – Point 8 – this has nothing to do with either density or design, which is the title of the policy. Advise removing this.

Policy EE1 – Delete ‘However, the business use, proposed at the Planning Application stage,’ and suggest this is changed to ‘Business uses requiring planning permission’.

Conditions relating to numbers of staff are unusual but not unheard of. The addition of a condition of this nature would need to be carefully justified to avoid failing an assessment of reasonableness e.g. that it is necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects. Conditions of this nature are also typically very difficult to implement and enforce by local planning authorities.

Policy EE2 – Paragraph 3 – after ‘provided’, add ‘there is no conflict with the other policies of the development plan and’.

Policy EE3 – Planning permission is not required for a change of use from A1 (retail) as follows:

Change of use from A1 (retail) to	<ul style="list-style-type: none">• A2• A3 up to 150m² and subject to Prior Approval• D2 up to 200m² and subject to Prior Approval and only if the premises was in A1 use on 5th December 2013• A mixed use comprising an A1 or A2 use and up to 2 flats may also be permitted subject to meeting certain conditions• C3 up to 150m² and subject to Prior Approval.
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There are also temporary permitted changes see link: https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use/2

The policy should reflect the national position. Add ‘Changes of use requiring’ to the beginning of the first sentence. Suggest changing ‘will be resisted’ to ‘will not be supported’. Delete ‘reasonable’, as this is vague and not defined for use in a policy by the NP. Delete ‘will be permitted’ and change to ‘will be supported’.

Paragraph 7.16: The meaning of this statement is unclear, does this mean additional floor space? If so, then this should be stated.

Policy EE4 – It is worth considering if there are any other potential uses for the site to add to the mix, would a broader B1 category be acceptable? See list of use classes: https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use.

Sentence 3 change ‘permitted’ to ‘supported’.

Sentence 4 change 'impact' to 'impacts'.

Sentence 6 add 'from any permitted scheme' after 'removed'.

Policy T1 – Add a full stop after 'standards'. Delete 'except that these' and add 'The WSCC car parking'. The policy states that: '...except that these standards should be considered a minimum provision within the Parish'. There should be sufficiently robust evidence provided to justify this position. The aims should be numbered differently to ensure there is no confusion with the main NP Policies e.g. Transport Aim A.

Map 11 – This map needs a key.

Paragraph 9.1: Delete 'therefore'.

Paragraph 9.3: The Plan needs to set a review timescale e.g. every 5 years based on the policy timeframe outlined in 9.6.

Appendix 5: This provides a wealth of information regarding the proposed LGS designations. However, the NPPF is clear that proposals for designation of LGSs are assessed against the criteria of paragraph 77 of the NPPF. Hence for the sake of accuracy, remove the reference to paragraphs 76 and 78 of the NPPF as they play no part in the determination of whether a site is suitable for LGS designation. Additionally, remove any references to Natural England's *Understand Access to Green Space Standards* as these do not relate to LGSs as defined in the NPPF.

Consultation Statement

The use of links to documents online should be considered carefully in the event that they are not kept up date over the lifetime of the document. Suggest considering if some of these documents can just be named, and which critically need to be included as appendices.

Paragraph 2.5: Formatting of the text is required here.

Paragraph 3.1: Consider changing 'enormous' to 'large' for the purposes of the tone of the document (although clearly it is true).

Paragraph 4.12: It is unusual to name check in a consultation statement – consider changing to 'Glass House Enabling Officers' or similar.

Paragraph 4.15: Advise removing names and thanking a list of people at the end of the document, as necessary, to avoid too much detail.

Sections 4 and 5 – It is clear that a considerable amount of work has gone into a wide range of consultations. The CS tells the story of the Plan and the key stages in a succinct and well presented format.

Section 6 – The complexity of the issues dealt with by the Plan has necessitated this CS to offer a detailed explanation of the local policy position in addition to setting out the consultation undertaken. The CS has achieved this succinctly and efficiently.

Paragraph 6.2: Consider if ‘without regard to the emerging NP’ is too strong and if this should be replaced with ‘in conflict with the site selection process of the emerging NP’. Replace ‘This site’ with ‘The CDC preferred site option’.

Appendix D – 18 July 2012 event – the number in attendance is missing.

Basic Conditions Statement

The formatting at point H2 of Table 2 needs amending.

Page 13 – Policy H1 – Add the following text: ‘Policy H1 allocates the development site to provide 11 dwellings to meet the indicative housing number of a minimum of 10 units, to meet the identified local need. This is a different site from that allocated in the draft Site Allocations DPD. Representations were made at the Examination, and although the Main Modifications to the draft Plan have been published they do not substantively alter policy PL1’. This commentary should be added to in order to link in with the AECOM Site Selection Report.

Page 15 – Policy H3 – What is the justification for non-conformity with a policy seeking affordable housing? This requires further information and explanation.

Paragraph 5.2: Include these opinions in the appendices of the document.

Paragraph 5.5: Replace ‘Document’ with ‘Documentation’.