

Examination of the Plaistow and Ifold Parish Neighbourhood Plan

Open Letter to Plaistow and Ifold Parish Council and Chichester District Council 8 July 2021

Paragraph 1.10.5. in Part 2 of the *Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and Examiners* advises that: *the independent examiner will initially undertake a high-level assessment of the plan documents. If there is an obvious and potentially fatal flaw, the independent examiner will write to alert the local planning authority and qualifying body.*

I undertook such a high level assessment at the start of the examination and concluded that there were no obvious or potential flaws. Unfortunately, following the Revised Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement, (Revised HRA), which I received on 2 July 2021, this is no longer the case. Therefore, in the spirit of the guidance, I am writing to alert the local planning authority and qualifying body.

I am obliged to determine whether the Plan complies with the Basic Conditions. The Basic Conditions are:

Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;

The making of the neighbourhood plan contributes to the achievement of sustainable development;

The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Development Plan for the area of the authority;

The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements; and

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).

On 21 April 2021 Chichester District Council advised via email: *As part of the required procedures on another neighbourhood plan in the north part of the plan area, CDC prepared a Habitats Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement and has received a response from Natural England set out below.*

Sussex North Water Supply Zone

We have advised that any developments in Chichester District which fall within the Sussex North water resource supply zone will need to be tested through an HRA. This is because the Sussex North area is supplied by a water extraction at Hardham, which we have advised cannot with certainty conclude is not having an adverse impact on integrity on the Arun Valley SPA, SAC and Ramsar.

Therefore, in-combination impacts on the Arun Valley SPA SAC and Ramsar need to be considered. A water neutral approach is a mechanism for avoiding impact if an alternative water supply cannot be secured. We appreciate this is a complex issue and would welcome engagement with your authority on this matter and through the Local Plan review.

In the same email, Chichester District Council stated that as the competent authority it was *obliged to undertake a further Habitats Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement of the Plaistow and Ifold Neighbourhood Plan, in conjunction with Natural England, in the light of this new issue.*

I replied in an email dated 22 April 2021 stating: *As both you and the Parish Council are well aware, as part of the examination of the Plan I am obliged to determine whether the Plan complies with all of the Basic Conditions. One of these conditions is: the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.*

In these circumstances, I am going to suspend the examination of the Plan pending the outcome of the HRA Screening Matrix and Appropriate Assessment.

I re-opened the examination on 2 July 2021 following receipt of the revised HRA. This document has been sent to the Parish Council and is available on the Chichester District Council's website for this Neighbourhood Plan. As such, I will not be quoting all of the document, but will quote key points.

The Revised HRA refers to the reasons for designation of Arun Valley SPA / SAC / Ramsar site and the site conservation objectives. It states: *The document from Natural England "Supplementary advice on conserving and restoring site features" sets a number of targets for the site under the supporting processes objective above. These cover hydrology and flow, water quantity, area depth and water quality. The hydrology of the river Arun is the major factor affecting these targets and this in turn is affected by the abstraction at Hardham for the supply of drinking water.*

Natural England were consulted on the Revised HRA. Whilst I am not quoting all advice given, Natural England advised *that effective mitigation to ensure that the plan will not increase water demand in the Sussex North WRZ needs to be addressed strategically through the current Local Plan Review and in partnership with neighbouring LPAs within Sussex North. Natural England will continue to work in partnership with your authority and neighbouring authorities to secure a Sussex North water neutrality strategy and associated policy for this complex issue. Once secured the strategy and policy will be applicable to Neighbourhood Plans within Sussex North.*

We have provided your authority with advice on potential mitigation measures to consider for current applications within Sussex North although again we have advised that mitigation should be secured strategically at the Local Plan level. Our advice includes a combination of maximising water efficiency of new builds to achieve a target of 90L per person per day and, in addition, providing water offsetting. Measures include ensuring new builds incorporate rainwater harvesting and greywater recycling as well as water efficient fixtures.

Following advice from Natural England the Revised HRA concludes on this matter that Chichester District Council as the competent authority *does not at this stage agree to the Plaistow and Ifold Parish Neighbourhood Plan under the Conservation of Habitats and Species Regulations 2017.*

Suggested mitigation with regard to this matter in the Revised HRA is as follows: *Until replaced with a strategic scheme of mitigation or a more sustainable source of water supply, the plan should ensure that developments mitigate water resource impacts through a combination of maximising water efficiency of new builds to achieve a target of 90L per person per day and, in addition, providing water offsetting. Measures include ensuring new builds incorporate rainwater harvesting and greywater recycling as well as water efficient fixtures.*

In the absence of a strategic scheme of mitigation or a more substantial source of water supply and as this mitigation advice is being given by Natural England on current planning applications, it is reasonable for the Revised HRA to reach this conclusion.

In order to meet the Basic Conditions - *The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements and the making of the*

neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7), it would be necessary to include these mitigation measures in the Neighbourhood Plan. Where I refer to EU obligations, I am referring to the Habitats Directive 92/43/EEC.

The Neighbourhood Plan allocates a site for residential development on Land Opposite the Green, Plaistow and a mixed use site on land at Little Springfield Farm. In addition, limited residential development at Ifold is supported subject to a list of criteria. These are in addition to the allocation of a site for residential development on Land North of Little Springfield Farm in the Site Allocations Development Plan Document, which is part of the Local Plan.

National Planning Practice Guidance, (at Paragraph: 001 Reference ID: 56-001-20150327 in the Housing: Optional Technical Standards Section), makes it clear through a link to a Written Ministerial Statement of 25 March 2015 that it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, I am unable to recommend that the mitigation measures outlined above can be included in the Neighbourhood Plan as this would be introducing an additional local technical standard relating to the performance of new dwellings. This would not have regard to national guidance and thus Basic Condition *Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan* would not be met.

To meet the Basic Conditions regarding conservation of habitats and EU obligations requires the Neighbourhood Plan to include additional local technical standard relating to the performance of new dwellings. However, this would not have regard to national guidance and thus would not meet the Basic Condition referred to in the above paragraph. In these circumstances, I am afraid that I have no alternative but to recommend that the Neighbourhood Plan does not proceed to referendum. I have seriously considered whether to hold an exploratory meeting or a hearing before reaching this conclusion. It is clear that the mitigation measures outlined in the conclusion to the Revised HRA seek to protect the integrity of the Arun Valley SPA / SAC / Ramsar site. Therefore, I see no benefit to any party for a meeting or hearing to be held.

In the light of the above, I would like to give the Parish Council the opportunity to consider whether it wishes to withdraw the Neighbourhood Plan from examination or whether I continue with the examination with the understanding that I will recommend that the Neighbourhood Plan does not proceed to referendum. I realise that either decision will be a great disappointment to the many local people would have contributed to the production of this Neighbourhood Plan.

I would like to add that I have given much thought to whether there is an alternative modification to the Neighbourhood Plan that I could recommend, but unfortunately there is not. I am sorry to give you such bad news. I realise that this is an important consideration for the local community. I would like to give the Parish Council 7 days from receipt of this letter to respond. If further time is required, for example to coincide with a Parish meeting, please let me know.

Please can this open letter, together with all other correspondence referred to above, be placed on the Chichester District Council's web page for the Neighbourhood Plan.

Kind Regards

Janet Cheesley