

Examination of the Chichester Local Plan 2021-2039

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Examination web pages: <https://www.chichester.gov.uk/localplanexaminationtimeline>

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15 January 2025

Tony Whitty

Divisional Manager Planning Policy

Chichester District Council

Dear Mr Whitty

### **Examination of the Chichester Local Plan 2021-2039**

1. As we indicated at the conclusion of the examination hearings on 13 November 2024, we are writing to set out our thoughts on the Chichester Local Plan 2021-2039 (the Plan) at this stage, and the way forward for the examination. Our comments are based on all that we have read, heard and seen to date. However, we emphasise that the examination is not yet concluded and consultation on main modifications is still to take place. Therefore, these comments are without prejudice to our final conclusions on the Plan. We would like to take this opportunity to thank you and your colleagues for your constructive and helpful approach throughout the examination.
2. Overall, we consider that, subject to main modifications, the Plan is likely to be capable of being found legally compliant and sound. We will set out our reasoning for this in our final report.
3. During the hearing sessions a number of potential main modifications were discussed. The Council has kept a running list of all of these and has produced a number of potential main modifications within a number of documents. This letter is focused upon the matters discussed at the hearing which we said we would give further consideration to, and to the administrative arrangements relating to all potential main modifications. We also provide advice in respect of a number of issues that we said we would give further consideration to.

### **The process**

4. We have provided our comments on the Council's list of potential main modifications which were discussed at the hearing. You have been drafting further potential main modifications in following up the action points from the hearings. Please provide us with a comprehensive list of potential main modifications for our comment and agreement before it is made available for

public consultation. That list should include the main modifications we set out in this letter. The Council should also consider the need for any consequential changes that might be required in connection with any potential main modifications.

5. The Council has previously prepared lists of proposed additional modifications. Some of these were discussed as potential main modifications during the hearing. Any remaining additional modifications are a matter solely for the Council. If the Council intends to make any additional modifications these should be set out in a separate document from the main modifications. If the Council intends to publicise or consult on any additional modifications it should be made clear that such changes are not a matter for the Inspectors. Similarly, further changes to the Policies Map should also be published for consultation but for reasons explained previously, we are not examining the Policies Map.
6. We should note at this stage that the Procedure Guide for Local Plan Examinations states that further hearing sessions will not usually be held, unless the Inspector considers them essential to deal with substantial issues raised in the representations to the main modifications, or to ensure fairness.

### **Consideration of main modifications**

7. The views we have expressed in the hearing sessions and in this letter on potential main modifications and related policies map changes are based on the evidence before us, including the discussion that took place at the hearing sessions. However, our final conclusions on soundness and legal compliance will be provided in the report which we will produce after the consultation on the potential main modifications has been completed. In reaching our conclusions, we will take into account any representations made in response to the consultation. Consequently, the views we expressed during the hearing sessions and in this letter about soundness and the potential main modifications which may be necessary to achieve a sound plan could alter following the consultation process.

### **Next steps**

8. We would be grateful if the Council could confirm to us the timetable for the publication of the main modifications, and providing to us for review the comprehensive draft list of main modifications and related documents.

### **Potential main modifications and advice**

#### **Legal compliance – sustainability appraisal**

9. As we explained at the hearings, it is our role to determine whether a local plan (a) satisfies the requirements of section 19 of the 2004 Act and any regulations<sup>1</sup> under sections 17 and 36; and (b) is sound. This means that in regard to the sustainability appraisal, we need to be satisfied that the Council carried out a

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<sup>1</sup> Town and Country Planning (Local Planning) (England) Regulations 2012

sustainability appraisal of the Plan, prepared a report of the findings of the appraisal, and published the report along with the Plan and other submission documents under regulation 19. The Council did these things, and we are satisfied that you have complied with the legal requirements of the 2004 Act and the 2012 Regulations. Neither the 2004 Act nor the SEA Regulations require the Inspector to determine if the local planning authority complied with the SEA Regulations during the preparation of the Plan.

10. That said, the Council will need to be confident that it complied with the SEA Regulations and in that regard, we advise that the sustainability appraisal is organised and presented in such a way that it may readily be ascertained, without any paper chase being required, what strategic and other policy options were considered in earlier stages and why they had been rejected.
11. It is clear to us that the strategy of the Plan, and its broad distribution of development has been shaped during plan making which commenced in 2016. Whilst the proposed plan period of the Plan has evolved during the protracted plan making process, there has been one plan making process, and the sustainability appraisal before us is the latest iteration in a succession of documents. We are of the view that the preparation of the Strategic Flood Risk Assessment (SFRA) does not undermine the findings of the sustainability appraisal and the reasonable alternatives considered by the Council in the earlier stages of sustainability appraisal.
12. The Council should satisfy itself that it has met the requirements for sustainability appraisal by producing an addendum to the Sustainability Appraisal of the submitted Plan in relation to the potential main modifications, as appropriate. We will need to see a draft of the addendum and may have comments on it. The addendum should be published for consultation.

### **Strategic Flood Risk Assessment**

13. We have now considered the additional documents in relation to the SFRA and the responses received to our Inspector led consultation. At this point we are not minded to recommend any Main Modifications arising from these, or request that further work is undertaken. The Council should secure the formal views of the Environment Agency on these documents for our consideration prior to the main modifications being finalised.

### **Habitats Regulations Assessment**

14. The latest position in respect of the mitigation of the potential effects of ammonia deposition on the Mens SAC is set out in CDC18. Whilst it would appear that a breach of the critical threshold for ammonia is not expected to occur until towards the end of the plan period, it nevertheless is expected to occur within the lifetime of the Plan before us. Appropriate mitigation should therefore be made through this Plan to address this issue. We invite the

Council to provide us with the wording of a main modification to address this matter.

15. The Council should also consider whether the Habitats Regulations Assessment requires updating as a consequence of the main modifications and if so, carry out consultation accordingly.

**Whether the strategic policies of the Plan would look ahead over a minimum of 15 years from adoption as per paragraph 22 of the National Planning Policy Framework (NPPF)?**

16. NPPF22 says that strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Given that the proposed plan period is for 2021 to 2039, the Plan would not look ahead 15 years from adoption. Depending upon the date of adoption, it would look ahead a maximum of 14 years.
17. In this respect, we have regard to a number of relevant factors. Firstly, the Secretary of State in her letter to local planning authorities (OD04) is clear in regard to plan making, that for plans currently at examination, the examination should continue, although where there is a significant gap between the plan and the new local housing need figure (via the proposed new standard method), the Government will expect authorities to begin a plan immediately in the new system. Consequently, there is a clear expectation by the Government in this regard that a new plan for Chichester should commence in the new system as soon as possible. The transitional arrangements in the revised NPPF also make this clear. This is in addition to the requirement for the review of local plans set out in Regulation 10A.
18. Secondly, there are a number of issues which may require an earlier review of the Plan. These include for example the issue of ammonia and the Mens SAC, the introduction of a monitor and manage approach to the highways issues concerning the A27, and, the matter of the extent, if any, of unmet housing and employment land need of neighbours, and in particular from the South Downs National Park, which will become known as the National Park Authority progresses its development plan.
19. Consequently, we consider it acceptable for the strategic policies of the Plan not to look ahead 15 years from adoption despite the inconsistency with one element of NPPF22. This will ensure that the Plan can progress to adoption and provide a significant boost to housing land supply, and the mitigation mechanisms by which matters such as those around the A27 capacity issues can be progressed.

## **The transport evidence base**

20. NPPF30 sets out that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.
21. The Procedure Guide for Local Plan Examinations is clear that evidence base documents, especially those relating to development needs and land availability, that date from two or more years before the submission date may be at risk of having been overtaken by events, particularly as they may rely on data that is even older. It goes on to say that as a minimum, any such documents should be updated as necessary to incorporate the most recent available information. But this may not be necessary for evidence documents on topics that are less subject to change over time, such as landscape character assessments.
22. In this case the Chichester Transport Study 2024 (TA03.01) was finalised in January 2024, and relates to the Regulation 19 version of the Plan. It is therefore a recent document which takes into account relevant national policy as set out in the NPPF and the Department for Transport Circular 01/2022, Strategic Road Network and the Delivery of Sustainable Transport, which was issued in December 2022. Furthermore, it takes into account the most recent available information. And, it is an assessment of the effects of the development proposed in the Plan before us. No alternative modelling has been offered by representors.
23. The Chichester Area Transport Model (CATM) relies on traffic analysis and outputs from a SATURN traffic model which was originally validated in 2014, and updated in 2018. It is acknowledged by the Council that the 2014 base year model utilises and is validated against traffic data and journey making patterns from that time. The Council acknowledge that the model is now old and that travel behaviour following the COVID-19 Pandemic has changed, with more home working, but with increases in other types of journeys on the road such as home deliveries. The Council is committed to updating the model at a very early stage as part of the monitor and manage process being developed going forward, particularly to inform appropriate mitigation measures.
24. In an attempt to verify the model, work has been undertaken by the Council to review current traffic flows and to compare them with modelled flows and also with observed flows from the model base year to strengthen the evidence base as far as is possible at this time. The transport modelling indicates that capacity issues will worsen through the plan period, taking into account existing commitments and development proposed through the Plan, albeit that the forecasts for 2031, are a good proxy for the likely conditions in 2039.

25. The baseline data for the CATM is not fully reflective of current conditions, such as travel patterns. The verification exercise however shows that the outputs of the model remain largely valid, and there is no alternative convincing evidence before us which indicates that the A27 junction capacity issues have appreciably changed for the better since 2014. Consequently, we take the pragmatic view that the transport modelling is in overall terms sufficiently adequate and proportionate to justify the strategic policy shift in the Plan to monitor and manage as set out in Policy T1. In so far as the transport modelling has influenced the proposed distribution of development in the Plan, given the known background traffic congestion conditions relating to the A27 junctions, we consider that it is adequate and proportionate for that purpose.

### **A27 Chichester Bypass Mitigation**

26. Through the examination, the Council has suggested a number of main modifications to Policy T1 (SD10.04). These include the definition of charging sectors and apportionment and averaging factors to be applied to the Target Contribution Level of £8,000 per dwelling (average) for development to contribute to the transport mitigation funding requirement in the south of the plan area. This has not been subject to consultation, and the views of interested parties on this are not therefore available to us.
27. The transport modelling undertaken for the Plan has been used to inform the cost apportionments, along with 2021 Census data and DfT National Trip End Model Car Ownership Forecasts. It is clear to us that the transport modelling is reaching the end of its useful life, and it is intended that it will be replaced by a new model in the short term. Consequently, the apportionment and averaging factors would need to be reconsidered in the context of the new model and the development of the monitor and manage approach. So, we do not find that the proposed inclusion in the Plan at this stage of the charging sectors and apportionment and averaging factors to be justified and nor are they necessary for soundness, and we do not intend to recommend a main modification to that effect. Furthermore, to do so would unnecessarily delay the adoption of the Plan.

### **Housing land requirement**

28. Whilst we have found that the evidence base in regard to transport is sufficiently up to date, adequate and proportionate, we have not been convinced that it justifies a housing requirement below Local Housing Need (LHN). There is not the clear evidence before us that any significant impacts from housing development, at development levels up to the LHN as calculated for the Plan, on the transport network (in terms of capacity and congestion), or on highway safety, cannot be cost effectively mitigated to an acceptable degree, nor are we convinced that such a level of development would give rise to unacceptable impacts on highway safety, or that the residual cumulative

impacts on the road network would be severe. Equally, there is not the evidence to demonstrate that a specific level of housing development above LHN would also be acceptable in transport terms.

29. Consequently, we do not find that there would be adverse transport impacts arising from meeting objectively assessed needs (OAN) which would significantly and demonstrably outweigh the benefits of meeting housing OAN in full. Or put another way, the evidence before us does not persuade us that a housing requirement of 90% of LHN is justified, whilst one at 100% would not be. Therefore, we do not accept that the application of NPPF11 b ii justifies a housing requirement below LHN.
30. Policy H1 should be amended so that the minimum housing requirement for the full plan period is a minimum of 11,484 dwellings, not 10,350 dwellings as per the submitted Plan, with consequential changes being made as necessary.
31. Paragraph 5.2 of the submitted Plan refers to 535 dpa applying in the southern plan area, and 40 dpa applying in the northern plan area. These figures have not been justified, and given they are not included in Policy H1 of the submitted Plan, would not be effective in this regard. A main modification should be made to delete these figures with consequential changes made as necessary.
32. The net completions of dwellings in the plan period to April 2024 is 2,326. Due to relatively high levels of housing delivery in the plan period to date, which has been well above LHN, the current supply of deliverable housing sites in the plan area has been somewhat depleted. We have no clear reason to doubt that the Council has identified a deliverable housing land supply for the five years starting in 2025 of around 2,381 dwellings, with around 634 completions anticipated in the current year.
33. The housing trajectory indicates that the level of housing completions would increase appreciably in the middle of the plan period, but would be lower short term, until the allocated sites and larger committed sites come forward. The five-year housing land supply inevitably is dependant to no small degree on existing commitments, and there is relatively little we can do through this Plan to boost housing land supply of developable sites significantly in the immediate term, especially without substantial delay to the adoption of the Plan, by when the housing land supply situation may have hardened further. There is also, amongst other things, the need for the monitor and manage approach to be put into place in the next few years to mitigate effects of new development on the A27. Therefore, in recognition of this, we consider that a stepped housing requirement is justified in this case.
34. The annualised housing requirement for the years 2021/22 to 2029/30 should therefore be 575 dpa. This figure is derived from the net completions to date, and net completions likely to arise from the identified five-year housing land

supply (including the assumed completions for 2024/25). That would ensure that there would be a marginal five-year supply of housing on adoption of the plan, including a 5% buffer. For the years 2030/31 to 2038/39 the annualised requirement should be 701 dpa to reflect the higher level of completions anticipated in the latter part of the plan period in the housing trajectory. A main modification should be prepared to amend Policy H1 accordingly and address any consequential changes.

35. The housing land supply identified in the Plan would provide for around 95% of the amended requirement for the plan period, sufficient for around 17 years of the 18 year plan period. Given the requirement in current national policy that Chichester should commence a Plan in the new system as soon as possible, and that the Plan is not the sole part of the development plan (as per the Council's Local Development Scheme which includes a possible Local Plan Site Allocation Development Plan Document) which is concerned with bringing forward land for housing, we do not require that the Council provides further land for housing through this Plan, as that would unnecessarily delay its adoption.
36. We discussed at the hearing those parts of Policy H1 relating to housing land supply and consider that to make the Policy effective they should be deleted, along with the broad spatial distribution figures. A simplified table should be inserted into the explanatory text to show the various elements of the anticipated housing land supply over the plan period, which may include the number of dwellings not presently being provided for (the 5% of the requirement referred to above).

### **Policy H6 Self-build and custom housing**

37. Submitted Policy H6 includes that new sites over 200 units which are allocated in the Local Plan will be required to provide self and custom build serviced plots as set out in the relevant site-specific allocation policies, and in all other instances 2% of market units provided on strategic scale housing sites should be self-build and custom housing. The Council has suggested main modifications to increase this to 5%.
38. The Council's Self and Custom Build Note (H13) identifies that demand for self-build and custom build homes is up to 53 dwellings per annum. It also identifies that windfall provision accounts for around 28 dwellings per annum on average. In principle, this justifies the Plan seeking to secure provision of custom and/or self build plots through sites of over 200 dwellings and the strategic scale housing allocations. Given that the requirements of Policy H6 would apply only to large and strategic scale sites which do not yet have planning permission, and having regard to the amount of new dwellings anticipated to come forward from those sources, the 2% requirement set out in the submission local plan would have little effect on meeting the residual need

beyond that arising from windfall sites. Therefore, we are content that the proposed figure of 5% as set out by the Council is justified. In reaching this view we have taken into account the policy requirement for marketing such plots and that they can revert to conventional market housing if unsold after 12 months.

#### **Policy E4 Horticultural Development**

39. Further to the discussion at the hearing and receipt of the statement of common ground on 27 November 2024 (PS/SC15/16a), we are broadly content with the Council's suggested main modifications as amended.

#### **Policy NE4 Strategic Wildlife Corridors**

40. In respect of Policy NE4, we note that modifications are proposed to remove reference to the sequential test and support this approach. Moreover, the interpretation of 'integrity' would appear to be sensible and ensure that the policy is effective and unambiguous.
41. We acknowledge that there is some inconsistency between the approach of the Council and the Parish Councils in respect of the exact definition of strategic wildlife corridors, with particular regard to the width and size of the identified corridors, and the acceptability of development within proximity to the corridors. It should be made clear within the Plan whether the approach to strategic wildlife corridors is a strategic approach, which would allow other planning documents to refine exact boundaries, or whether the boundaries set out in the local plan are intended to be strictly interpreted for the purposes of directing development.

#### **Policy A12 Chidham and Hambrook**

42. In respect of Policy A12, it was discussed at the hearing sessions whether the wording of the policy should be amended to recognise that the development within that policy is largely committed, and to provide clarity as to the further extent of housing which should be brought forward. As submitted the Policy is not justified or effective as it purports to require land to be allocated when the level of such housing has in effect been met.
43. We appreciate the comments made that the policy would be necessary should the committed development fail to come forward in full, and accept the desire to retain it for the sake of completeness. However, the Policy and explanatory text should be amended to make it clear that sufficient land has already been committed to meet the 300 dwelling allocation, and that the policy would apply in the event that different schemes were to come forward rather than those committed.

## **Policy A13 Southbourne Broad Location for Development**

44. Similar to Policy A12, Policy A13 should be amended to make clear the residual number of dwellings which should be planned for in the Southbourne Allocation Development Plan Document to ensure that the policy is effective and factually correct.

### **Conclusion**

45. On the evidence we have read and heard to date, all of the main modifications set out in this letter are necessary for the Plan to be sound. We should be grateful if the Council would prepare a final set of main modifications for our review prior to consultation on them. The main modifications should be subject to Sustainability Appraisal and/or Habitats Regulations Appraisal as appropriate. The Council is responsible for any amendments to its Policies Map and for undertaking consultation on 'additional modifications'. We look forward to reviewing these documents in due course, prior to consultation on main modifications.
46. On receipt of this letter, the Council should make it available to all interested parties by adding it to the examination website. However, we are not seeking, nor envisage accepting, any responses to this letter from any other parties to the examination.

Yours sincerely

*J Ayres    P Lewis*

INSPECTORS