

IN THE MATTER OF THE LOXWOOD NEIGHBOURHOOD PLAN  
CONSULTATION AND EXAMINATION

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JOINT ADVICE

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1. We are asked to advise Crownhall Estates (“Crownhall”) in respect of the ongoing re-consultation and re-examination of the Loxwood Neighbourhood Plan (“the LNP”) in light of its judicial review challenge earlier in 2014, which was conceded by Chichester District Council (“the District Council”). Crownhall is promoting the development of an alternative housing site at Loxwood, at Land to the South of Loxwood Farm Place on the High Street (“the Application Site”).
2. In particular, we are asked to advise in respect of a number of identified material legal errors which have been made in respect of the site allocation process during the preparation of the LNP, and which still remain present in the new consultation draft LNP and the evidence base that supports it, especially the Site Assessment table and associated methodology. We are asked whether the LNP is likely to be found sound by the new or reappointed Independent Examiner when assessed under the Basic Conditions requirements (“the Basic Conditions”) for neighbourhood plan examinations set out in §8.2 of Schedule 4B of the Town and Country Planning Act 1990 (“the 1990 Act”), upon the re-examination of the LNP.

**Summary**

3. In summary, the current re-submitted LNP continues to suffer from fundamental and serious legal flaws. It fails to achieve the objectively assessed needs as far as it can sustainably do so. The site selection process was deeply flawed, most notably by defining the settlement boundary prior to the site allocation process so as to include preferred sites and exclude other sites and the new boundary was then used to justify those new allocations.

Secondly, as a whole, the LNP scoring process is inaccurate, misleading, wrongly scored and unfairly skewed. Thirdly, the LNP erroneously defines windfall sites by excluding support for larger windfall sites. Taken together, the Basic Conditions have not been complied with, as it is not appropriate in the light of national planning policy as outlined in the National Planning Policy Framework (“the NPPF”), fails to achieve sustainable development and does not make the provision required by the emerging Local Plan.

#### **Factual Background**

4. Loxwood Parish, within the District Council area, is made up of the village of Loxwood and the hamlets of Alford Bars to the North and Roundstreet Common to the South. The Application Site lies on the High Street but just outside of the new defined settlement boundary of Loxwood.

#### *The Loxwood Neighbourhood Plan*

5. A Steering Group of parish councillors and local residents on behalf of the Loxwood Parish Council (“the **Parish Council**”) have been progressing the LNP. The original LNP was published for consultation in 2013.
6. Crownhall made an application for planning permission for development of the Application Site for 25 new houses including 11 affordable units in December 2013.
7. Initially, the District Council had indicated support for the development of the Application Site in light of the FAD (Facilitating Appropriate Development) which identified a housing requirement of 60-100 dwellings for Loxwood. The FAD has since been withdrawn because of the advanced stage of the emerging Local Plan.
8. In producing the submitted LNP, the Parish Council produced a Survey, Analysis and Site Assessment Table. This evidence base underpinned the final residential sites proposals identified in the LNP. The LNP identifies two sites

as preferred choices for development – land at Farm Close and land at Nursery Site – based on their scores in the site allocation table. The Application Site was not identified and scored third best according to the table.

9. The LNP subsequently underwent Examination in March 2014. The Examiner reported on 11 April 2014, recommending that the LNP would meet the ‘Basic Conditions’ for a neighbourhood plan, if various changes were made. The Examiner’s report was considered by the District Council’s Development Plan Panel and a revised plan put to a referendum of the parish on 24 July 2014.

*Crownhall’s planning application*

10. The planning application was refused on 25<sup>th</sup> June 2014 because of perceived conflict with the draft Neighbourhood Plan and a highways issue (which has now been resolved with the District Council).<sup>1</sup>

*Crownhall’s Judicial Review Challenge to the LNP*

11. On 14 July 2014, an application for judicial review of the decision to send the LNP to a referendum was issued by Crownhall. The claim was brought on seven grounds including inter alia:
  - (ii) The Inspector and the District Council failed to consider whether the Neighbourhood Plan would meet the objectively assessed housing needs (“OAN”) of the area as required by the District Council.
  - (iv) The site assessment exercise carried out for the Neighbourhood Plan was based upon pre-determined and immaterial considerations:
    - (a) One criterion was whether a potential housing site was within the settlement boundary as defined by the Neighbourhood Plan which had been drawn to include the Parish Council’s preferred sites and exclude others such as the Application Site;

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<sup>1</sup> The reasons for refusal also included the absence of a planning obligation, but that was solely because the application was refused.

- (b) The exercise erroneously said that the Conifer Nursery was ‘a brown field site or a commercial site’.
  - (c) Whilst the Claimant’s site south of Loxwood Place Farm contained an overhead cable, it was not a relevant or correctly applied physical constraint as it would be put underground.
  - (v) The examiner failed to consider whether the allocated sites accorded with the NPPF and the emerging Chichester District Local Plan (“CLP”), or if she did, failed to give any adequate or intelligible reasons on this matter.
  - (vi) The draft Neighbourhood Plan was not in conformity with the emerging Local Plan and proceeds upon a material error as to the meaning of that emerging plan in respect of the meaning of ‘windfall’.
12. In August and September 2014, negotiations continued between CH and the District Council before a settlement was reached whereby the District Council conceded the claim under another ground concerning its failure properly to screen the LNP for strategic environmental assessment and agreed to re-consult and re-examine the LNP as a whole.
13. The LNP has since been resubmitted in the form in which it was put to the referendum. The consultation period closes on 4 December 2014. we are asked to advise in respect of the compliance of the submitted plan in legal terms with the Basic Conditions as these arise at the examination. In particular, notwithstanding the agreement to consult and examine afresh, several serious and material legal flaws remain in the LNP. These are considered in the assessment below. Several other matters are being raised directly with the District and Parish Councils.

*The District Council Local Plan*

14. The draft Local Plan is currently being examined. Loxwood parish is included within the ‘North of Plan Area’ part of the district. As it stands, the emerging Local Plan draft Policy 5 provides for 339 dwellings within this North of Plan

Area in the period 2012-2029. 200 of these are allocated to the individual communities and the emerging Local Plan contains an indicative figure of 60 dwellings for Loxwood Parish. The remaining 139 dwellings are expected to be windfall sites.

15. On 8 October 2014, the Inspector of the Local Plan temporarily halted the local plan examination in order to give the District Council an opportunity to respond because she had not seen robust enough evidence concerning the District Council's housing need figure of 410 per annum over the 15 year period of the proposed Local Plan. The Inspector considered that a much higher figure in the region of 570-580 per annum was likely to be appropriate.
16. The District Council acceded to the Inspector's request to consider undertaking an audit of its evidence base and to reconsider settlement capacities in the light of the probable need for a higher figure to be accommodated. On 2 December 2014, the position was considered at an examination session and the Inspector has chosen to consider the position in detail before commenting. In advance of this, the District Council produced an audit document which raises the proposed figure to approximately 435 per annum. Within this reconsideration, there is no analysis of housing capacity to the North of the area, nor is there any particular consideration of Loxwood or the other parishes despite the Inspector's request for parish boundaries and contributions to be considered.

#### **Neighbourhood plans**

17. The Localism Act 2011 introduced neighbourhood development plans. The main provisions are sections 38A-C of the Planning and Compulsory Purchase Act 2004 which apply the procedures for Neighbourhood Development Orders in sections 61F, 61I, 61M-P and Schedule 4B, Town and Country Planning Act 1990 ("the 1990 Act") to the neighbourhood planning process, with modifications.

18. The process for all neighbourhood plans are the preparation of the plan or order by the parish council or neighbourhood forum, its submission to an independent examination, followed by a referendum and afterwards the making of the plan by the local planning authority. As noted above, this process has already been aborted once in the case of Loxwood as a result of the judicial review.
19. The examiner is required to consider, amongst other matters, whether the draft plan meets the 'Basic Conditions' which are (Schedule 4B, para 8(2) of the 1990 Act, as modified):
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],
  - ...
  - (d) the making of the [plan] contributes to the achievement of sustainable development,
  - (e) the making of the [plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
  - (f) the making of the [plan] does not breach, and is otherwise compatible with, EU obligations, and
  - (g) prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan.]
20. The examiner is not to consider any matter other than meeting the Basic Conditions, various procedural matter identified within paragraph 8(1) and compatibility with rights under the European Convention on Human Rights ("Convention rights").<sup>2</sup> The examination is concerned with the merits of the plan, as to whether it is 'appropriate' in the light of national policies and guidance and whether it contributes to the achievement of sustainable development. The obligation in sub-paragraph (2)(a) is wider than simply having regard to national policies and guidance, it must be appropriate to make the plan in the proposed form in the light of those documents. That includes the appropriateness of the inclusion or exclusion of development sites.

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<sup>2</sup> Schedule 4B, para 8(6), Town and Country Planning Act 1990 (as modified).

21. The examiner may recommend that the draft plan is submitted to referendum, submitted according to modifications specified by the examiner or refused.<sup>3</sup> Modifications may only be recommended if they are needed to secure that the draft plan meets the Basic Conditions, Convention rights, corrects errors or meets the requirements of sections 38A and 38B.<sup>4</sup> The report must ‘give reasons for each of its recommendations’.<sup>5</sup>

### **Relevant National and Local Policy**

#### *The NPPF*

22. The National Planning Policy Framework (“the NPPF”) introduces a new presumption in favour of sustainable development and requires local planning authorities to plan to meet their housing needs. §14, the golden thread of the NPPF, requires that decision-takers grant planning permission for schemes that accord with the development plan without delay. For other proposals the presumption will mean:

where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

23. §47 of the NPPF provides that:

To boost significantly the supply of housing, local planning authorities should:

- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies

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<sup>3</sup> Schedule 4B, para 10(2).

<sup>4</sup> Schedule 4B, para 10(3).

<sup>5</sup> Schedule 4B, para 10(6).

set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.

24. The NPPF defines windfall sites as ‘sites which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available’ (p.57, Annex 2). This definition is repeated in the emerging Local Plan (at p258). Previously developed land is defined in the NPPF as:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings [...]

#### *The Emerging Local Plan*

25. Policy 4 of the pre-submission draft of the emerging Local Plan required provision for 6973 homes to be delivered in the Plan area between 2012-2029 and this will amount to approximately 410 per annum. As noted above, the figure has now been raised by 415 dwellings to a figure of approximately 435 per annum in the District Council’s November audit statement. Within the North of Plan Area sub-area, some 339 homes would be provided. This figure has not changed despite the audit undertaken by the District Council.
26. Paragraph 7.27 of the emerging Local Plan noted ‘Policy 5 presents indicative housing numbers to be planned for in each parish. These figures should be regarded as providing a broad indication of the potential scale of housing that the District Council and individual parishes will seek to identify through future planning documents.’ Paragraph 7.29 continued:

Some flexibility will be allowed for minor amendments to housing numbers for individual parishes subject to the detailed investigation and assessment of potential sites through neighbourhood plans and in the Site Allocation DPD. In some cases, suitable sites of 6+ dwellings may come forward as planning applications. Where such sites are permitted, the requirement for additional housing in the parish will be reduced accordingly.



27. Policy 5 set out indicative housing numbers for the parishes in the Plan Area (North) as:

Kirdford	60
Lynchmere	10
Loxwood	60
Plaistow & Ifold	10
Wisborough Green	60

28. These total 200 of the 339 dwellings required in that area by Policy 4. The remainder are to be windfalls.

*The LNP*

29. In accompanying text before Policy 1, the LNP (October 2014 post-JR submission) states as follows:

18.1.1 The emerging Chichester District Local Plan makes provision for 6973 houses over the plan period 2012 to 2029 with the parishes north of the Plan Area of Loxwood, Wisborough Green, Plaistow and Ifold, Kirdford and Lynchmere, being allocated a total provision of 339 houses. It is proposed that 200 are found from allocated sites with 92 from small site windfall allowance. Paragraph 7.13 of the emerging District Local Plan defines windfall as small developments of less than 6 houses arising mainly through change of use, conversions and small infill sites. From the windfall allocation, 21 houses are accounted for by existing planning permissions and identified housing sites, with the remainder of the windfall allocation unidentified.

18.1.2. The allocated site requirement for the parish of Loxwood is 60 houses over the plan period. Loxwood is a semi-rural parish and the Settlement Boundary as defined by the Chichester District Council Saved Local Plan is full. New sites are required and the Settlement Boundary will need to be expanded.

30. The Independent Examiner in the first examination recommended that the 60 housing figure for Loxwood be recorded as a minimum, sensibly stating at §29 of her report that ‘the maximum numbers can be determined on a site-by-site basis, taking into consideration site constraints and emerging Local Plan policy. This approach allows for flexibility should the indicative figure in the

emerging Local Plan increase.’ However, rather than express the Examiner’s recommendation as a minimum figure of 60 houses within the settlement boundary, the District Council altered the text so that it was limited to a minimum of 60 houses on allocated and windfall sites located within the settlement boundary.

31. Policy 1 of the LNP now provides that:

The Loxwood parish Neighbourhood Plan will allocate a minimum of 60 houses on allocated and windfall sites located within the Settlement Boundary defined in accordance with policy two of this Plan.

32. Policy 2 of the LNP deals with site allocation and provides that:

Within the Neighbourhood Plan Area, there is a presumption in favour of sustainable development as defined in this Neighbourhood Plan, the Chichester District Saved and Emerging Local Plan and the National Planning Policy Framework. The Settlement Boundary of Loxwood village is defined in figure 6 below.

Any land within the parish of Loxwood which is outside the Settlement Boundary of Loxwood village is deemed to be rural and development should comply with policy 12 of this neighbourhood plan.

33. The LNP therefore proposes a minimum of 60 homes at Loxwood, including windfalls. This was a change from the plan before the examiner which proposed the allocation of 60 houses and allowed for the development of an unspecified number of windfalls. The examiner proposed the allocation of a minimum number of 60 houses in addition to unspecified windfalls.
34. The re-submitted plan still fails to consider whether Loxwood should take any of the remaining 139 of the 339 requirement for the North of Plan Area, whether they could be accommodated within the Settlement Boundary and where they could be put. The LNP therefore still fails, notwithstanding the judicial review proceedings, to meet the objectively assessed housing requirements (paragraph 47 of the NPPF) and the requirements of the emerging Local Plan.

35. The amendment of the LNP in June took away 60 allocations plus an unspecified number of windfalls and creates a 60 dwelling figure, albeit a minimum. There is therefore no support in the Neighbourhood Plan for meeting any of the 139 shortfall in the North of Plan Area. As the Council acknowledged, this was a major change from the pre-examination draft and the Independent Examiner's report.
36. There was therefore a failure to consider whether the basic condition in paragraph 8(2)(a) that it was appropriate to make the plan having regard to national policies was met. Additionally it failed to accord with the emerging Local Plan. This was contrary to paragraphs 8(1) and 12(4) of Schedule 4B. As it stands, as we discuss further below, the current version of the LNP repeats this legal error.

*LNP Site Assessment Methodology*

37. Contained in the LNP at §18.3.5 is a description of the site assessment methodology followed for the purposes of site allocation as follows:

A detailed assessment of the suitability of the remaining sites was carried out in accordance with the criteria provided by URS. The red/amber/green traffic light system defined by URS for each criterion was translated into scores assigning a score of three for red, two for amber and one for green. These scores were then allocated for each of the criteria. Using this methodology, three sites emerge as having potential for development, and in order of their scores are:

1. Land at Farm Close - SHLAA No. LX0860
2. Nursery Site – SHLAA No. LX0855
3. Land South of Loxwood Farm Place – SHLAA No. LX 0857

38. The LNP accords great weight to the scoring system adopted and supported by the criteria and methodology devised by URS. It forms the basis for its site allocation according to the OAN figure of a minimum of 60. In the site assessment table, the top three sites were totalled up as follows: 1. Farm Close (19) 2. Conifer Nursery Site (20) and 3. Land South of Loxwood Farm Place (24).

39. We consider these scores, the errors in the site assessment methodology and the implications which flow from them in our assessment below.

**Assessment of the LNP's Potential Compliance with Basic Conditions**

40. For the LNP to be found in accordance with the Basic Conditions, the Examiner will have to have regard to national policies and guidance, consider the contribution it is likely to make to sustainable development, as well as its conformity with the policies of the emerging Local Plan and other EU or Human Rights obligations. In our view, this assessment will necessarily have to include:
- (a) the LNP's contribution to the objectively-assessed housing needs ("OAN") of the Local Plan area;
  - (b) the robustness and legality of the LNP's approach to determining its contribution to OAN; and
  - (c) whether, in light of the ongoing revisions taking place in relation to OAN and the housing requirement during the Local Plan examination, Loxwood's contribution to OAN should be increased;
  - (d) the need for sustainable development, including providing for development in sustainable locations to meet needs in the area; and
  - (e) If so, whether any alternative sites might contribute to the greater need for housing numbers to contribute to the emerging Local Plan shortfall.
41. Consequently, in order for the independent Examiner properly to assess the compliance of the LNP with the Basic Conditions, it will be essential to test the evidence base which supports the housing allocation figures and sites within the LNP. At present there is no up to date adopted development plan which sets out the housing requirement for the District Council area. Consequently the LNP should meet the full, objectively assessed needs as far as consistent with the requirements of the NPPF (para 47). In these circumstances, a sustainable site should be included if it will contribute to meeting those needs. Whilst a more constrained figure is in the emerging

Local Plan, that has not been adopted and remains contentious. The LNP does not in any event make appropriate provision even for the requirement currently identified in the emerging Local Plan.

42. It is in this light that the policies in the LNP and the evidence base – the site allocation table and associated methodology – will have to be interrogated and assessed. The LNP and its evidence base must be lawful and fairly and objectively assessed in the light of the requirement that neighbourhood plans contribute to OAN.

*Material Errors in the LNP and its Evidence Base*

43. There are at least five serious errors in the site assessment methodology used to inform Policies 1, 2, 4 and 5.

- (1) The drawing of the settlement boundary, as is acknowledged openly in the resubmitted LNP at §18.2.3<sup>6</sup>, to include the Conifer Nursery and Farm Close sites (allocated under policies 4 and 5), which on any view were not within the existing settlement (and indeed excluded existing dwellings and proposals which were or would be within the settlement);
- (2) The erroneous scoring of a positive feature, adequate transport access, as a negative, and the wrong scoring of the Application Site despite a positive assessment by URS, at page 21 of its Transport Report, that access points could be created at the site;
- (3) The incorrect designation of the Conifer Nursery Site as a ‘brown field site or a commercial site’ because the NPPF explicitly excludes from previously developed, land which is or was ‘occupied by agricultural or forestry buildings’; it is not a brownfield site and forestry is not a commercial use. As with the

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<sup>6</sup> ‘The Settlement Boundary of the parish as defined in the CDC Saved Local Plan has been expanded to reflect the new developments which have been built since the Boundary was last drawn. This also includes the new allocated sites under this Neighbourhood Plan of Farm Close and the Nursery, and makes provision for windfall development adjacent to North Hall. The re-drawn Settlement Boundary also limits the potential for back garden developments.’

two other sites in contention, the Nursery ought to have been scored as '3';

- (4) The irrelevant and incorrect identification of an overhead cable contained in the Site as a physical constraint when it is not an obstacle to the acceptable development of the site (in the application scheme it is to be placed underground);
- (5) The total given for the Conifer Nursery in the site assessment table was added up incorrectly – mathematically it should be 21 rather than 20;

44. In respect of the first and perhaps most serious error, the redrawing of the settlement boundary in order to predetermine the site allocation process, Stuart Woodin of URS accepted in an email dated 10 October 2014 that defining the settlement boundary before allocating the sites rather than based on the settlement boundary in the Local Plan was “probably” an error (email enclosed with this opinion). The effect was to rig the process – the settlement boundary was changed to include the preferred sites and their inclusion within the new settlement boundary improved their score to justify their allocation. This may have been entirely unwitting, but if so that illustrates the lack of care and thought which has been put into the LNP process. The site selection process cannot be relied upon.

45. Similarly, a review of the site assessment process in relation to Highways and Transport was carried out on behalf of Crownhall by consultants, Motion (also enclosed with this opinion), which concluded, reinforcing the identification of the errors above, as follows:

“Sites are assessed against a series of criteria which warrant an answer of ‘Yes’, ‘Unknown’ or ‘No’. Each of these three answers correspond to a numerical value, i.e. Yes = 3, Unknown = 2 and No = 1. Sites are then awarded a total score based on the addition of these numerical values for all the criteria. The lower the total score, the more appropriate the site is for development. Given this, a score of 1 (No) corresponds to a positive attribute whilst a score of 3 (Yes) corresponds to a negative attribute/constraint. For instance, if a site falls within Flood Zone 2 it is given a score of 3 (Yes), whilst if the site does not fall within Flood Zone 2 it is awarded a score of 1 (No).

However, the above methodology does not work for the criteria of relevance to highways and transportation; 'Does the site have suitable vehicle and pedestrian access points or could access points be created'. As outlined above, a score of 1 (No) indicates a positive attribute of a given site, however, in this instance a score of 1 (No) is a negative attribute i.e. a site does not have suitable access or points where access could be created. Likewise, a score of 3 (Yes) should indicate a negative attribute/constraint, yet for this criteria an answer of 3 (Yes) corresponds to a positive attribute i.e. the site does have suitable access or points where access could be created. As with the 'brown field or commercial site' criteria, the scores should have been inverted. This oversight has resulted in unrepresentative Total Scores.

This oversight is especially noteworthy with regard to Conifer Nursery which does not have suitable access points or the potential for access points to be created. With regard to the criteria relating to access, the Nursery was assigned a value of 1 (No). However, the lack of access is clearly a negative attribute and as such should be awarded a value of 3 in line with the above methodology. Furthermore, the Total Score for Conifer Nursery has been added up incorrectly. The current Total Score should read 21 rather than 20. However, with the correction to the access criteria, the revised Total Score is 23.

Of further note is the Total Score assigned to Land South of Loxwood Place Farm. With regard to the criteria relating to access, Loxwood Place Farm has been assigned a score of 2 (Unknown). However, it has been established through a Planning Application at the site that suitable access can be achieved. As such, and given the previous failure to invert the associated scores, Land South of Loxwood Plane Farm should be assigned a value of 1 for this criteria. This would make the Total Score for the site 23 rather than 24."

46. It is not apparent what the scoring for transport was meant to be – whether the Conifer Nursery and Farm Close were to be treated as yes or no. However Loxwood Place Farm could have access provided and so should have scored '1'.
47. Consequently the scoring system is incorrect. This has very serious implications for the site allocation process as a whole and the LNP's compliance with the Basic Conditions in respect of the NPPF and sustainability. Applying the correct scores, the Application Site would have scored 21 (reducing the cables by 2 and access by 1), while the Nursery Site would score at least 23 (increasing brownfield by 2, basing the settlement

boundary on the adopted Local Plan (+2), reducing the score for cables (-2) and correcting the mathematical error (+1); the access score might also need to be increased). The Farm Close Site, with its location outside the Local Plan settlement boundary is factored in, would score 21, with access being satisfactory given the planning permission. This would have meant that the Application Site would have scored best (with Farm Close) according to the LNP's URS scoring system. The Conifer Nursery site would be third.

48. These fundamental and unlawful scoring errors continue to be accompanied by the LNP's erroneous definition of windfall sites to be sites of less than six units: para 18.1.1. As we have noted above, the definitions in both the CLP and the NPPF do not limit the numbers on such sites. The figure of 'six' is used in the housing land supply figures so that the windfall sites assumed are small ones. National and emerging Local Plan policy allow planning permission to be granted for windfall sites with more than six dwellings on them. This is particularly important in circumstances such as those pertaining in Loxwood and Chichester District where it is clear that additional housing numbers will need to be found in order that the emerging Local Plan satisfies the requirement to demonstrate OAN.

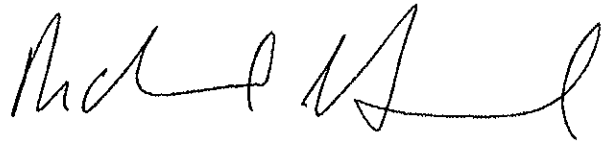
### **Conclusion**

49. The appropriateness of the LNP proposals have to be considered in the light of national policy and guidance and the requirements of sustainable development. The LNP fails to comply with the Basic Conditions in respect of national policy by failing to make an appropriate contribution to housing supply and being based on a deeply flawed site selection exercise. Additionally it fails to appreciate the correct role of windfall sites. It is not in accordance with national policy as outlined in the NPPF nor is it in accordance with the emerging Local Plan as it stands.
50. In the absence of an adopted up to date Local Plan the requirement is to meet the objectively assessed needs in as far as there are sustainable sites to do so. Loxwood fails to make the contribution which the emerging Local Plan



requires by allowing minimal capacity for windfall development. The Local Plan examination has revealed the need for greater housing numbers to be found across the plan period. In these circumstances, Loxwood could contribute a higher number of houses to the overall figure. The Application Site, as a sustainable and viable option which scores best under the LNP's own scoring system, should therefore be considered an available addition from within Loxwood Parish to the overall housing contribution.

51. If we may be of further assistance on this, or any other, matter then please do not hesitate to contact us in chambers.



**RICHARD HARWOOD QC**



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**4 December 2014**

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