

Examination of Chichester Local Plan
2021-2039

Statement on behalf of
Landlink Estates Limited

MATTER I

Question 2 and Question 9
September 2024



LANDLINK
ESTATES

JACKSON PLANNING 

Sustainability Appraisal

Q2- Is the sustainability appraisal (SA) adequate?

- 1.1 The position of Landlink Estates is that the SA is deficient in terms of reasonable alternatives in relation to the Spatial Strategy, Policy Options and Site Allocations as the SA has not considered the necessary requirements for climate adaptation and climate mitigation in particular to achieve legally binding targets for Climate Change:
- Decarbonisation of Energy Systems by 2035
 - Net Zero by 2050
- 1.2 This is linked to the failure of the plan to meet its statutory duty in the requirement under [Section 19\(1A\) of the Planning and Compulsory Purchase Act 2004](#) requires local planning authorities to include in their Local Plans “*policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change.*”
- 1.3 This is dealt with substantively in a response to question 9 below at 1.36– 1.58 of this statement.

National Policy

- 1.4 The Government has recognised a climate emergency and the Climate Change Act 2008, as amended, sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050.
- 1.5 The Clean Growth Strategy anticipates that the 2050, targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.
- 1.6 The National policy statement for Energy EN – 01 is part of a suite of NPS issued by the Secretary of State for energy security and net zero. This is government policy for delivery of major energy infrastructure.
- 1.7 EN-01 The analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be comprised predominantly of wind and solar.
- 1.8 The Department for Energy Security & Net Zero National Policy Statement for Renewable Energy Infrastructure (EN-3) was

designated in January 2024. Similar to EN-1, it sets out national policy in respect of renewable energy and states that 'there is an urgent need for new electricity generating capacity to meet our energy objectives'.

- 1.9 There is no assessment in the SA or the plan of how much renewable energy is required in the district to achieve Net Zero, how this might be achieved in a spatial strategy and what the land use implications for this requirement for urgent new renewable electricity generation are.
- 1.10 There are only two references to renewable energy in the whole of the SA firstly in relation to the policy of Stafford Borough Council, and secondly in the discussion on page 36 where the only suggestion comments there is no site-specific opportunity in respect of renewable heat or power. There is not a single assessment of the role that renewable energy could have in climate mitigation. There are only four mentions of the word 'energy' and these relate to the energy performance of buildings only.
- 1.11 As the Local Plan does not contain policies in relation to the land use implications of renewable energy and the decarbonisation of the grid the SA has therefore failed to iterate these national binding policy requirements in the preparation of the plan.
- 1.12 In all scenarios tested there has been no consideration of spatial implications for Net Zero 2050 and Decarbonised Energy by 2035. How can the SA be described as securing the development and use of land where the primary plan objective to mitigate and adapt to climate change is not tested in the reasonable alternatives?

Reasonable Alternatives

- 1.13 The Inspectors have insufficient and inadequate information to allow scrutiny of the reasonable alternatives that meet the legal requirements with regard to climate change. This was not part of the SA process. The SA and the plan lacks critical information in relation to delivery of the legal duties. Worse still with regard to the renewable energy electricity generation necessary to reach net zero in the district, it is not just lacking critical information, it is entirely missing.
- 1.14 The Council cannot know if the spatial strategy meets the necessary targets for renewable energy as the SA has not considered it at all.

- 1.15 At paragraph 4.1.10 when discussing reasonable alternatives the SA confirms “*establishing a supply of land to meet housing needs is typically a matter of overriding importance. In turn, the discussion of reasonable growth scenarios presented below is ‘housing led’*”.
- 1.16 This confirms the SA did not consider climate change as part of the reasonable alternatives.

Case Law in Relation to SA

- 1.17 The case *Hickinbottom J in R (on the application of Friends of the Earth England, Wales and Northern Ireland Ltd) v Welsh Ministers [2015 Env LR 1]* noted that an authority may adopt a non-SEA process to identify those options which meet the objectives.
- 1.18 However, the only information on Climate Change that is part of the evidence base is the Council’s Climate Change Action Plan, which does not cover the plan period and is not consistent with national policy on energy or changes in the energy industry. This non SA process does not meet the objectives and its options are therefore emasculated.
- 1.19 Earlier SA CN09 at the Issues and Options stage did not consider climate change mitigation in the specific questions in the alternatives considered. Likewise in CN06.03 the SA of the preferred approach only considered reasonable alternatives that included housing options and housing distribution, none of them included assessment of renewable energy requirements.
- 1.20 The validity of the SA is in question because it does not include reasonable alternative options to meet the Climate Change legal requirements, as these are not included or considered in any other process referenced in the SA. None of the growth scenarios tested considered climate change requirements, and it is clear from the analysis below that the methodology set out by AECOM in ID 02 which confirmed “*Define RAs taking into account the objectives and geographical scope of the plan*” as set out in regulation 12 (2)of the SEA regulations simply did not reflect the means to achieve the objective in any growth scenario.

Section 9.6 of SA - Climate Change Mitigation

- 1.21 The Objective is set out that says “Achieve zero net increase in GHG emissions. However, the SA then makes a mistake. It says the Local Plan *“must demonstrate a suitably ambitious approach in respect of minimising greenhouse gas emissions from both transport and the built environment”*”.
- 1.22 That is not the correct basis because it does not consider the key component of contribution of renewable energy developments as part of the mechanism to achieve this and the discussion in 9.6.2-9.6.5 the SA only considers the transport emissions and built environments of the strategies without considering scope for renewable energy development.
- 1.23 At 9.6.6 the SA concentrates thematic policies only in respect of built environment emissions and states clearly that *“the fact that the plan says relatively little on the matter of built environment decarbonisation, potentially leads to a missed opportunity in respect of communicating the issues / opportunities to a wide audience”*.
- 1.24 The conclusion on Climate Change Mitigation at 9.6.8 of the SA says *“In conclusion, there is a need to flag moderate or uncertain negative effects, mindful of the urgency of the issue”* *“However, it is also the case that is difficult to pinpoint particular ways in which the preferred spatial strategy will help to ensure that the built environment decarbonization opportunities are fully realised.Also the plan says little on a host of built environment decarbonisation issues / opportunities that are often a major focus of local plans.”*
- 1.25 The SA text admits quite openly it has not properly dealt with this issue.
- 1.26 Whereas the *“National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development”*.

Paragraph: 001 Reference ID: 6-001-20140306

Revision date: 06 03 2014

- 1.27 The statement at 9.6.8 shows that climate change is not central to the economic, social and environmental strategy for sustainable development in the plan and further underpins and demonstrates that reasonable alternatives with regard to climate change mitigation have not been considered.

- 1.28 In respect of Climate Change Adaptation, the SA at 9.5.8 says: policies also assist with ensuring a clear framework under which further work might be undertaken in respect of long-term planning for those parts of the Manhood Peninsula that are protected by coastal defences. It is therefore clear that the SA also does not deal with that now as part of the reasonable alternatives.
- 1.29 The scoping exercise for the Sustainability Appraisal with the Statutory Consultees¹ identified concerns about the sustainability objectives, Natural England commented that the Climate Change is not only about control of emissions. They commented that it is about adaptation for wildlife and sea level rise, which they described as 'key for your authority' and should be included here. The plan has only moved part way to this, identifying potential climate change flooding issues without offering any strategic land use solution.

Remedies

- 1.30 The Courts have afforded LPAs the ability to correct SAs. *Cogent Land v Rochford DC* [2012] EWHC 2542 (Admin) confirmed that an addendum SA requested by an Inspector was capable in curing the defects of an earlier version of the SA, however, *No Adastral New Town v Suffolk Coastal* [2015] EWCA Civ 88 found that the corrections can address any deficiencies in the SA. The addendum must not simply justify the strategy chosen, it must seriously consider the spatial and land use implications of meeting the requirements of Section 19(1A) of PCPA2004.
- 1.31 If the Inspectors find that the SA can be corrected to deal with the very significant spatial requirements under the Climate Change Act 2008 and the PCPA 2004 this might be a solution.
- 1.32 These are significant deficiencies and if addressed properly they will have consequences for the spatial strategy of the plan. It would be impossible to achieve Net Zero without significant land use implications. The heavy lifting with regard to climate change mitigation for significant coastal retreat might be beyond the plan period, but the decarbonisation of the grid is required by 2035 well within the time limit of this plan.
- 1.33 The SA fails to consider the baseline carbon dioxide emissions and the actions needed to reduce emissions over time. National datasets for carbon dioxide emissions are held by the Department for Energy

¹ Comment in response to SA scoping by Rebecca Pearson, Natural England 04/08/21

Security and Net Zero, which produces disaggregated figures for local authorities in the UK². This data should form the basis of reasonable alternatives in the SA.

- 1.34 The Council have not positively prepared and have not justified the appropriate strategy as they have not considered the reasonable alternatives in the light of climate change legislation and national guidance.

² <https://www.gov.uk/government/statistics/uk-local-authority-and-regional-greenhouse-gas-emissions-national-statistics-2005-to-2020>

Matter 1 Climate Change

Question 9

Are the policies of the Plan designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the 2004 Act?

National Policy

1.35 The mandated The requirement under [Section 19\(1A\) of the Planning and Compulsory Purchase Act 2004](#) requires local planning authorities to include in their Local Plans "Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change."

1.36 Annex 2 Glossary of the NPPF defines both key terms as follows:

1.37 **Climate Mitigation:** Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions.

1.38 **Climate change adaptation:** Adjustments made to natural or human systems in response to the actual or anticipated impacts of climate change, to mitigate harm or exploit beneficial opportunities

1.39 NPPF Paragraph 160

To help increase the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development;

1.40 NPPF Paragraph 35d confirms Plans must (amongst other things) must be **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this

Framework and other statements of national planning policy, where relevant.

- 1.41 The Climate Change Act 2008 – is identified specifically as relevant³. and the recently adopted National Energy Policies as set out above are highly relevant here.

- 1.42 The NPPG goes on to advise:

Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. To be found sound, [Local Plans](#) will need to reflect this principle and enable the delivery of sustainable development in accordance with the policies in the [National Planning Policy Framework](#). These include the requirements for local authorities to [adopt proactive strategies to mitigate and adapt to climate change](#) in line with the provisions and objectives of the [Climate Change Act 2008](#), and co-operate to deliver strategic priorities which include climate change.

In addition to the statutory requirement to take the Framework into account in the preparation of [Local Plans](#), there is a [statutory duty](#) on local planning authorities to include policies in their Local Plan designed to tackle climate change and its impacts. This complements the sustainable development duty on plan-makers and the expectation that neighbourhood plans will contribute to the achievement of sustainable development. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development.

Paragraph: 001 Reference ID: 6-001-20140306

Revision date: 06 03 2014

- 1.43 Policy is clear that this approach requires land use change. As set out in the UK Government Net Zero Strategy: Build Back Greener October 2021.

³ Extract from NPPG What climate change legislation should planners be aware of? [Section 19\(A\) of the Planning and Compulsory Purchase Act 2004](#) requires local planning authorities to include in their Local Plans "policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change". Paragraph: 002 Reference ID: 6-002-20140306 Revision date: 06 03 2014

- 1.44 Net Zero⁴ “A systemic and spatial approach to land use, that considers net zero, socioenvironmental objectives, and various socioeconomic factors such as population and economic growth, is necessary to enact land use changes that delivers net zero as well as environmental outcomes in line with the 25 Year Environment Plan. Such an approach enables trade-offs to be managed among different objectives while facilitating win-win outcomes- for instance with flood protection and recreation”.
- 1.45 The plan has not included **Land Use Policies or allocations** that deal with the spatial consequences of climate mitigation and adaptation. The SA confirms this at 9.6.8 which says in terms in relation to the conclusion on climate change mitigation that there is a need to flag moderate or uncertain negative effects.
- 1.46 The plan has not grappled with ways in which the preferred spatial strategy will secure decarbonisation opportunities and this observation again is confirmed in the sustainability appraisal.
- 1.47 There are no land use allocations for renewable energy and its associated infrastructure. The plan does not identify the amount of renewable energy required in the District to meet its statutory duty in respect of the climate change act 2008. The Inspectors examining the plan cannot therefore possibly know that the land use implications for that legal requirement are met.
- 1.48 Indeed, there is no strategy let alone a positive strategy as required by the NPPF 160 in relation to renewable energy a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development
- 1.49 With Climate adaptation there are the same limits to the plan.
- 1.50 The plan has not included housing allocations to deal with climate adaptation and managed coastal retreat. This housing requirement must be identified in the Local Plan as part of a robust land use strategy to deal with [Section 19\(1A\) of the Planning and Compulsory Purchase Act 2004](#) which requires local planning authorities to include in their Local Plans “policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change”. Paragraph: 002 Reference ID: 6-002-20140306 Revision date: 06 03 2014.

⁴ UK Government Net Zero Strategy: Build Back Greener October 2021

- 1.51 This component of the housing requirement is entirely missing from the plan, this is linked to the inadequate policy, land use and spatial framework in relation to the mitigation and adaptation to climate change.

Remedies

Climate Mitigation

- 1.52 The plan should contain a calculation of the quantum of renewable energy required to meet the mandatory climate change targets, and what this might equate to in land use areas.
- 1.53 Areas suitable for renewable energy development could be identified on the plan, or search areas or candidate areas could be identified in the spatial strategy for renewable energy with a subsequent DPD to support the practical details of such a policy following further work.
- 1.54 A more positively framed policy on net zero has been submitted by this Representor in the submitted representations to the Regulation 19 plan. This would go some way to resolving this unacceptable situation. Only net zero compatible development should be supported in the plan.

Climate Adaptation

- 1.55 The Council should signal the need to identify an area of coastal change management to properly plan for climate adaptation as set out in SA.
- 1.56 Other Councils have identified candidate areas of coastal change management, given the Council has withdrawn the only strategic site in the Manhood Peninsula based on climate adaptation issues it behoves the Council to plan positively for coastal retreat.
- 1.57 As housing will be permanently lost to coastal retreat this must be replaced. The detail of such a policy might be subject to more detailed work in a subsequent DPD. However, the Local Plan as the spatial strategy for the area until 2039, must start to identify the broad spatial and land use requirements for this important component of housing supply. Given uncertainty this might be expressed as a range, and as with areas of search for SDLs, this strategic signifier in a candidate coastal change management area would be a solution.