

Examination of the Chichester Local Plan 2021-2039

Further Statement in Respect of

Matter 1: Procedural/Legal Requirements

Submitted on behalf of:

Beechcroft Developments Limited

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Document Management

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Matter 1: Procedural/Legal Requirements

Issue: Whether all statutory and regulatory requirements have been met?

Duty to Cooperate

Q.1 Is there clear evidence that the Council has engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies in accordance with section 33A of the 2004 Act in respect of strategic matters with cross-boundary impacts considered through the preparation of the Plan?

1. Based on the Local Plan Examination evidence base it is evident that Chichester District Council has engaged with neighbouring authorities and other prescribed bodies during the preparation of the Local Plan.
2. Table 2 of SD06 - Duty to Cooperate Statement of Compliance (April 2024) summarises the position reached in respect of the Statements of Common Ground (SoCG) with various bodies. This is reproduced below:

SoCG-with	SoCG-latest-position
Arun District Council	Drafted-but-not-yet-agreed
East Hampshire District Council	Signed-18-January-2024
Havant Borough Council	Signed-2-May-2024
Horsham District Council	Circulated-for-signing
South Downs National Park Authority	Drafted-but-not-yet-agreed
Waverley Borough Council	Circulated-for-signing
West Sussex County Council (non-transport)	Drafted-but-not-yet-agreed
West Sussex County Council (transport)	Drafted-but-not-yet-agreed
Environment Agency (with Southern Water)	Signed-30-April-2024
Natural England	Drafted-but-not-yet-agreed
National Highways	Drafted-but-not-yet-agreed
Surrey County Council	Drafted-but-not-yet-agreed
Hampshire County Council	Drafted-but-not-yet-agreed

3. This reveals that only three SoCG have been signed, with two others circulated for signing. The other eight have reached the **'Drafted but not yet agreed stage.'** As such it is unclear as to what has been agreed and what has not. This is noteworthy, especially in the context of Arun District, which has a closer relationship and interaction with Chichester District (particularly in respect of being in the same Housing Market Area (HMA) with close economic and transport influences) than any other neighbouring authority.
4. Based on the content of the various SoCG it is clear that most of the neighbouring authorities have indicated that they cannot meet any of Chichester District's unmet housing needs and many of them cannot meet their own needs. Although this situation is not unusual the evidence base published to date means that there is still doubt as to what is agreed and what is not. As a result it is not possible to tell how comprehensive and robust the evidence base is so that it can be tested at examination.

5. This is contrary to Paragraph 022 Reference ID: 61-022-201900315 of the Planning Practice Guidance (PPG) which confirms that “... **the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved; this will be thoroughly tested at the plan examination**”
6. This situation also raises concerns about the effectiveness of the work carried out in undertaking DtC process. Subsection (1) of Section 33A of the Planning and Compulsory Purchase Act 2004 confirms that:
 - (1) **Each person who is**
 - (a) **a local planning authority;**
 - (b) **a county council in England that is not a local planning authority; or**
 - (c) **a body, or other person, that is prescribed or of a prescribed description;****must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.**
7. As set out in the representations made by Beechcroft Developments Ltd to the Regulation 19 stage of the Local Plan in March 2023 at that time the evidence base on Duty to Cooperate matters was incomplete and as a result there was a lack of the necessary evidence to provide fully informed representations on whether the Duty to Cooperate had been fulfilled. This still applies. Based on the current available information for DtC matters, there continues to be doubt on the overall effectiveness of the DtC engagement.
8. In addition to the above, consideration should be given to the Secretary of State (Matthew Pennycook MP) for the MHC&LG to the Chief Executive of the Planning Inspectorate 30 July 2024 which sets out guidance on how inspectors should operate “pragmatically” during local plan examinations to allow deficient plans to be ‘fixed’ at examination. This sets out a maximum of six months for local authorities to carry out additional work and that this will apply with immediate effect. Based on the above SoCG table there is clearly uncertainty as to when the evidence will be complete. Until this is achieved there is uncertainty as to whether the Local Plan is ‘sound’ and whether the Examination should continue.
9. At present there is clearly uncertainty about DtC process and whether the plan can be found sound. In this situation paragraph 031 Reference ID: 61 –031- 20190315 of the PPG applies and in particular where it states:

“As the duty to cooperate relates to the preparation of the plan it cannot be rectified post-submission, so if the Inspector finds that the duty has not been complied with they will recommend that the local plan is not adopted and the examination will not proceed any further. The most appropriate course of action is likely to be for the local planning authority to withdraw the plan and engage in the necessary discussions and actions with other relevant local planning authorities and bodies. In these circumstances the local planning authority will need to re publish the revised plan for consultation before it is re-submitted for examination.”
10. Based on the above there is clearly uncertainty about the DtC process carried out to date, especially its effectiveness. This can only be remedied by Chichester District Council withdrawing the local plan and re-engaging with all of the relevant local planning authorities and bodies; publishing a revised plan for consultation; and then re-submitting it for examination.