



Pinnacle House, 23-26 St Dunstan's Hill, London, EC3R 8HN, UK
T: +44 (0)20 3713 8500 E: contact@dlbp.uk www.dlbp.uk

Hearing Statement – Matter I

Subject: Chichester District Council Local Plan Examination
Matter: Matter I – Procedural and Legal Requirements
Date: September 2024
Client: Artemis Land and Agriculture Ltd

DLBP Ltd is registered in England and Wales at 7a Pindock Mews, Little Venice, London, W9 2PY, number 7229435.
VAT registration number 394 9000 80.

A. MATTER 1 – PROCEDURAL / LEGAL REQUIREMENTS

1. This Hearing Statement has been prepared by DLBP Ltd, on behalf of Artemis Land and Agriculture Ltd, in response to Matter 1 (Procedural and Legal Requirements) of the Inspectors' Matters, Issues and Questions, and specifically question 3.

2. Matter 1, Question 3 has regard to the Sustainability Appraisal (SA), and is repeated here for completeness:

Is the SA sufficiently clear as to how reasonable alternatives have been considered and compared through the various stages in plan making?

3. As set out very clearly at section 4.1.13 of the SA, AECOM was appointed to appraise the reasonable alternatives, but the Council is responsible for identifying reasonable alternatives and then deciding on the preferred approach.

4. The SA has set out that the Local Housing Need (LHN) figure of 638 dwellings per annum, as derived from the standard method (an already capped figure at 40% above the 'baseline' need figure) is the starting point.

5. This figure is then capped further to 575 dwellings per annum by the Council. This is because capacity constraints associated with the A27 in the south of the plan area apparently results in a resolution that there is capacity for no more than 535 homes per year in the south (i.e. a further capping of its proposed supply).

6. This means that 103 homes per year need to be made up in the North of the Plan area (1,854 homes over the plan period).

7. For the North of the Plan area, the SA included the following six scenarios in the Sustainability Appraisal:

- 1, lower growth of only the four parishes providing 514 homes (29 homes per year);
- 1a, lower growth of the four parishes plus Crouchlands Farm, providing 1,114 homes (62 homes per year);
- 2, higher growth of only the four parishes, providing 1,139 homes (63 homes per year);
- 2a, higher growth of the four parishes plus Crouchlands Farm, providing 1,514 homes (84 homes per year);
- 3, highest growth of only the four parishes, providing 1,964 homes (109 homes per year); and
- 3a, highest growth of the four parishes plus Crouchlands Farm, providing 2,564 homes (143 homes per year).

8. Of these, scenario 3a was discounted on the basis that it will exceed the 1,800 homes that can be accommodated due to water neutrality (paragraph 5.5.13 of the SA), even though this would apply to scenario 3 too.

9. Table 6.2 of the SA then sets out the appraisal of the five options based on the scoring methodology. This shows that for scenario 1a – lower growth of the four parishes but including Crouchlands Farm – it:
- has the lowest overall score of 13, where the lowest indicates the **best** performing;
 - performs best overall in the four categories of accessibility, communities and health, historic environment and landscape; and
 - has only one category where significant negative effects are expected. But this is in relation to transport where the same is expected for all scenarios other than 1, and with respect to the others listed as red, scenario 1a scores lowest (i.e. performs better than them).
10. In this context, it is not clear why scenario 1a has not been identified as the preferred option. With respect to the ‘discussion’ paragraphs that follow on from Table 6.2, we note / highlight the following points of inconsistency and disconnect with the scoring.
11. For accessibility, the SA identifies that the sub-area is not well connected, and so lower growth scenarios are judged to be preferred. With respect to Crouchlands Farm, the SA notes its potential positive attributes, including the provision of a primary school which in turn could benefit the village of Kirdford, along with the Whole Farm Plan proposals. But the SA then appears to criticise the scale of Crouchlands Farm with reference to the Government’s Garden Communities Prospectus (2018) and paragraph 73 of the Framework. However, other than the reference to the scale not being 1,500 homes, the SA provides no analysis on these points – rather, it simply makes a negative assertion that contradicts the scoring in Table 6.2.
12. For biodiversity, it is agreed through the Ecology Statement of Common Ground (Appendix 1) that has been agreed (on 2 September 2024). This in relation to the following live appeals that development at Crouchlands Farm would achieve biodiversity net gain significantly above that required under the Framework and above that which would be required under the Environment Act (which does not apply to the appeal due to the transitional arrangements):
- APP/L3815/W/24/3344538 (appeal for 108 homes) - 25.5% gain in habitat units and 56.75% gain in hedgerow units;
 - APP/L3815/W/24/3344661 (Whole Farm Plan - the village hub / rural regeneration scheme) - 65.86% gain in habitat units and 73.69% gain in hedgerow units; and
 - APP/L3815/W/24/3344663 (appeal for 412 homes with a school, or 492 homes without a school) - 21.66% gain in habitat units and 53.09% gain in hedgerow units.
13. Significant biodiversity net gain levels would unlikely be achievable on small sites delivered on a piecemeal basis.
14. For communities and health, the SA is positive of the inclusion of Crouchlands Farm within the broader ‘lower growth’ scenario, noting the positive benefit of the delivery

- of a primary school. With respect to the SA's comments about this needing to be accessed by private car, this is the case for any new or expanded school provision in this area, and ignores that an enhanced bus service would be provided. The SA also ignores that the new settlement at Crouchlands Farm would add to the vitality and viability of the local shops and businesses in the existing villages.
15. Table 6.2 of the SA scores all scenarios the same for the economy and employment. This disregards the proposals for the Whole Farm Plan (village hub) commercial element of Crouchlands Farm, with the discussion text failing to justify this position.
 16. With respect to housing, the SA notes that the allocation of two large sites – Crouchlands Farm and 1,000 home scheme to the west of Loxwood – would create a 'delivery' risk with an overreliance on these. However, none of the growth scenarios anticipate both of these sites being included, and so this is a redundant point in the terms expressed in the SA. But in the context of being over reliant on large scale allocations, scenarios 1a and 2a are clearly preferable to scenario 3 because Crouchlands Farm is a smaller and more deliverable development.
 17. With respect to transport, the SA notes three sites where there are specific highway safety concerns, but raises no such point with respect to Crouchlands Farm.
 18. As noted above, the clear conclusion of the SA in both its scoring matrix at Table 6.2 and the associated discussion text should be that scenario 1a is the preferred approach. The plan has thus not been positively prepared as the evidence in the SA suggests that the need, or at least closer to that need, can indeed be met.
 19. However, this is not the case. Rather, paragraph 7.3.1 confirms that the Council has ignored the SA and elected to pursue a "blended growth" option of scenarios 1 and 2, i.e. a growth scenario that has not been considered and properly assessed in the SA.
 20. To assist in ensuring that the SA is clear as to how reasonable alternatives have been tested and compared, there should, at the very least, be a scenario that tests the "blended growth" scenario for 720 homes (or 40 per year) that has ultimately been included within the emerging Local Plan. This should then be compared against the higher growth scenarios (including the best performing scenario 1a) which would further help the Council in meeting its local housing need.
 21. In this respect, it is our view that the SA is not sufficiently clear as to how reasonable alternatives have been considered and compared and that the analysis in the SA is flawed with respect to the options that were considered.

Development Plans and Infrastructure Panel

22. Section 4.1.4 of the Sustainability Appraisal claims that 'Development Plans and Infrastructure Panel' Committee meetings have been a key part of the process for reasonable defining, appraising and consulting-upon reasonable alternatives. But these meetings, and their minutes, have not been made public. When submitting Freedom of Information request, the minutes that have been returned have been heavily redacted so that the plan-making procedure has not been transparent. See responses at Appendix 2.

23. Thus, if there were reasons discussed in these meetings for limiting growth in the North of the Plan area that ultimately resulted in the “blended growth” scenario being taken forward, then this information should be publicly available and explained within the Sustainability Appraisal to assist in making it clear as to how reasonable alternatives have been tested and compared.

APPENDIX I – ECOLOGY STATEMENT OF COMMON GROUND

Topic Statement of Common Ground – Ecological Matters

Appeal References:

Appeal A - Ref: APP/L3815/W/24/3344538

Appeal B - Ref: APP/L3815/W/24/3344661

Appeal C – Ref: APP/L3815/W/24/3344663

Crouchlands Farm, Rickman's Lane, Plaistow, West Sussex RH14 0LE

2nd September 2024

1 ECOLOGICAL INPUT TO STATEMENT OF COMMON GROUND

1. This Statement of Common Ground sets out the common ground (in relation to ecology matters) agreed by the appellant and Chichester District Council with respect to the three appeals at Crouchlands Farm, which have an agreed description of development as follows:

Appeal A - Ref: APP/L3815/W/24/3344538

Erection of 108 (Use Class C3), and associated access and street network, footpaths, open spaces, plant, landscaping and site infrastructure.

Appeal B - Ref: APP/L3815/W/24/3344661

Regeneration of Crouchlands Farm, comprising demolition of selected buildings, extension, refurbishment and remodelling of selected buildings and the erection of new buildings to provide up to a total of 8,788sqm (including retained/refurbished existing buildings) comprising the existing farm hub (sui generis), a rural enterprise centre (Use Classes E(a), E(b), E(c), E(e), E(g), C1 and F1(a)), a rural food and retail centre (Use Classes E(a) and E(b)), and a glamping site (Use Class E and sui generis); provision of new hardstanding, pedestrian, cycle and vehicular access, circulation and parking, landscaping including new tree planting, maintenance and improvements to the Public Rights of Way, site infrastructure and ground remodelling.

Appeal C – Ref: APP/L3815/W/24/3344663

Outline planning application (with all matters reserved except access) for the erection of up to 492 dwellings (Use Class C3), education provision including primary school (Use Class F1) and associated access, footpaths, open spaces, landscaping and site infrastructure.

2. This Topic Statement of Common Ground has been prepared jointly by Artemis Land and Agriculture Ltd (hereafter referred to as 'the appellant') and Chichester District Council (hereafter referred to as 'the council'). It should be read in conjunction with the main Statement of Common Ground prepared by the appellant, which sets out a thorough background the appeal and covers a range of topics.
3. The Appeals have been made further to the failure to determine application ref 22/03114/FULEIA on 17 May (Appeal A), failure to determine application reference 22/01735/FULEIA before the agreed extensions of time expired (Appeal B) and refusal of planning permission for application reference 22/03131/OUTEIA on 16 May 2024 (Appeal C).
4. The reasons for refusal and extracts from a committee report produced for Appeal B that are specific to ecology are provided below.

Appeal A – Full planning for 108 dwellings

5. The putative reasons for refusal provided by Chichester District Council are as follows:

9) It has not been demonstrated that, by reason of air pollution as a result of increased vehicular traffic on the local highway network, there would not be an unacceptable impact upon the Mens Special Area of Conservation contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

11) It has not been demonstrated that, by reason of the impact upon Bechstein and Barbastelle bats, there would not be an unacceptable impact upon The Mens Special Area of Conservation or the Ebernoe Common Special Area of Conservation. In the absence of suitable mitigation, the proposal is likely to have a significant effect on The Mens SAC and the Ebernoe Common SAC, contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029,

Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

12) Insufficient information has been submitted to demonstrate that the mitigation necessary to ensure an acceptable impact upon Great Crested Newts and bats can be achieved within the detailed layout proposed. The application is therefore contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE5 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039 and the NPPF.

Appeal C – Outline planning for up to 492 dwellings, primary school and associated infrastructure

6. Reasons for refusal provided by Chichester District Council

8) It has not been demonstrated that, by reason of air pollution as a result of increased vehicular traffic on the local highway network, there would not be an unacceptable impact upon The Mens Special Area of Conservation. In the absence of suitable mitigation, the proposal is likely to have a significant effect on The Mens SAC, contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

10) It has not been demonstrated that, by reason of the impact upon Bechstein and Barbastelle bats, there would not be an unacceptable impact upon The Mens Special Area of Conservation. In the absence of suitable mitigation, the proposal is likely to have a significant effect on The Mens SAC, contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

Appeal B – The Regeneration of Crouchlands Farm

7. Chichester District Council have provided a planning committee report dated the 10th July 2024, which sets out its position in considering the impact of the proposals for this development upon protected species and habitats. The following putative reasons have been given:

7. It has not been demonstrated, through evidence, exceptional reason or a compensation strategy, that the proposal, would not result in the loss or deterioration of ancient woodland, an irreplaceable habitat, in conflict with Policy 52 of the Chichester Local Plan 2014-2029, Policy NE5 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 – 2039 and the NPPF.

13. It has not been demonstrated that, by reason of air pollution as a result of increased vehicular traffic on the local highway network, there would not be an unacceptable impact upon The Mens Special Area of Conservation contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

15. It has not been demonstrated that, by reason of the impact upon Bechstein and Barbastelle bats, there would not be an unacceptable impact upon The Mens Special Area of Conservation or the Ebernoe Common Special Area of Conservation. In the absence of suitable mitigation, the proposal is likely to have a significant effect on The Mens SAC and the Ebernoe Common SAC, contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029,

Policy NE6 of the Chichester Local Plan Proposed Submission (Regulation 19) 2021 - 2039, the NPPF and the Conservation of Habitat and Species Regulations 2017 (as amended).

16. It has not been demonstrated that there would not be an unacceptable impact upon protected species. The application is therefore contrary to Policies 25 and 49 of the Chichester Local Plan: Key Policies 2014-2029, Policy NE5 of the Chichester Local

8. Following discussion between Alan Kirby (for the council) and Paul Whitby (for the appellant), the following areas of common ground have been agreed either broadly across the appeals, or individually, considering the reasons for refusal and committee report referenced above.

General Agreement

9. In respect of Biodiversity Net Gain, there is no applicable requirement for anything beyond a positive outcome (as set out at paragraph 180(d) of the Framework) and, given the application was submitted prior to the relevant legislation contained within the Environment Act 2021 becoming law, the recent statutory requirement for 10% biodiversity net gain does not apply to this proposal. Calculated biodiversity gains above 20% may therefore be considered a significant positive benefit above that required in policy.
10. It is agreed that the Technical Note produced by Royal Haskoning dated 27th August 2024 appropriately explains that there are no likely significant impacts arising from traffic associated air quality effects upon the Mens SAC.
11. The proposed buffers to all ancient woodland habitats across the three appeal sites are adequate to ensure there will not be any significant construction phase impacts to ancient woodland. The buffers are further a suitable size to ensure that with strict and careful management operational phase impact risk can also be adequately mitigated. The development proposals will not result in any direct woodland loss. This is on the basis of the habitat creation shown on Figure 2 and described in the 'Technical Note – Mitigation, Compensation and Enhancements, Crouchlands Farm, Plaistow (Ecology Co-op, 2024) can be delivered.
12. The principles of the design of lighting across the three applications is sufficient to ensure that bats, including more light-sensitive species, will be able to commute and forage across retained habitats and the area of proposed buffers and ecotones (i.e. the 30m and 10m buffer zones around residential development and the edges of Limekiln Wood and Hardnip's Copse) across the three appeal sites where it has been described that light levels will not exceed 0.4 lux (classified here as 'darkness'). Should the lighting levels in the 30m and 10m buffer zones (see Figure 2 in the 'Technical Note – Mitigation, Compensation and Enhancements, Crouchlands Farm, Plaistow (Ecology Co-op, 2024)' for locations) around residential development and the edges of Limekiln Wood and Hardnip's Copse be appropriately secured with light levels of 0.4 lux or below light-sensitive bat species will be expected to continue to commute and forage in these locations.
13. The Technical Note produced by the Ecology co-op summarising Mitigation, Compensation and Enhancement measures across the three appeal sites illustrates effective protected species mitigation measures and site-wide compensation and enhancement measures that will support the biodiversity net gain strategy for the site and provide benefits for wildlife. This is based on measures around the timing of delivery and extent of habitat creation being appropriately secured.
14. The surveys completed across the three appeal sites, supported by updated survey data in 2024 is appropriate to inform an impact assessment for each of these sites individually and in combination.

Appeal A – Full planning for 108 dwellings

15. This development will achieve 25.5% gain in habitat units and 56.75% gain in hedgerow units as calculated under the Statutory Metric. This represents a gain significantly above that required under the National Planning Policy Framework (NPPF) and above that which would be required under the Environment Act (which does not apply to this development).
16. A Great Crested Newt Mitigation Strategy has been provided (19 September 2023) and this sets out adequate mitigation measures that can be appropriately conditioned to ensure the conservation status of great crested newts is preserved. This agreement overcomes the putative reason for refusal No. 12 provided for application 22/01735/FULEIA.
17. The development proposals will not result in the loss of any ancient woodland habitat as a result of construction proposals and the illustrated development buffers are appropriate to ensure that ancient woodland habitat will not be affected through the construction process.
18. The buffer zones of 10m and 30m to be implemented will act as dark corridors with light levels of less than 0.4 lux being maintained within them, thereby facilitating use of existing habitat and new habitat by light sensitive bat species. The lighting design will need to be appropriately secured to ensure potential effects on bats can be mitigated. These buffer zones are those shown in Figure 2 in the 'Technical Note – Mitigation, Compensation and Enhancements, Crouchlands Farm, Plaistow (Ecology Co-op, 2024).

Appeal C – Outline planning for up to 492 dwellings, primary school and associated infrastructure

19. Biodiversity impact calculations supporting application reference 22/03131/OUTEIA illustrate that this development can achieve an 21.66% gain in habitat units and 53.09% gain in hedgerow units. This represents a gain significantly above that required under the National Planning Policy Framework (NPPF) and above that which would be required under the Environment Act (which does not apply to this development).
20. The buffer zones of 10m and 30m to be implemented will act as dark corridors with light levels of less than 0.4 lux being maintained within them, thereby facilitating use of existing habitat and new habitat by light sensitive bat species. The lighting design will need to be appropriately secured to ensure potential effects on bats can be mitigated. These buffer zones are those shown in Figure 2 in the 'Technical Note – Mitigation, Compensation and Enhancements, Crouchlands Farm, Plaistow (Ecology Co-op, 2024)

Appeal B – The Regeneration of Crouchlands Farm

21. Biodiversity impact calculations supporting application reference 22/03114/FULEIA illustrate that this development can achieve a 65.86% gain in habitat units and 73.69% gain in hedgerow units. This represents a significant biodiversity gain above that required under the NPPF or Environment Act.
22. Light splash to the edges of Limekiln Wood and Hardnip's Copse will be managed to ensure that they remain dark (under 0.4 lux). The design measures to achieve this outcome will need to be delivered through design and appropriately secured.
23. Proposals for the creation and management of habitats has been set out in the Biodiversity Enhancement Strategy document produced by the Ecology Co-op, which supports the indicated biodiversity net gain values. This is complemented by the further detail provided in Technical Note produced by the Ecology co-op summarising Mitigation, Compensation and Enhancement measures across the three appeal sites.

Signed by The Ecology Co-op, on behalf of Artemis Land and Agriculture Limited

Date: 2nd September 2024

Name: Paul Whitby

Position: Managing Director/Principal Ecologist

Signature:



Signed by Alan Kirby on behalf of Chichester District Council

Date: 2nd September 2024

Name: Alan Kirby

Position: Technical Director

Signature:

