
Chichester Local Plan 2021-2039

Hearing Statement on behalf of

**Barratts, Martin Grant Homes & Crownhall Estates Limited
(Representor No. 6827)**

Relating to Matter 1:

Procedural/Legal requirements - Sustainability Appraisal

Issue: Whether all Statutory and Regulatory requirements have been met?

Q 2. Is the Sustainability Appraisal (SA) adequate and have the legal requirements of the 2004 Act and the Town and Country Planning (Local Planning) (England) Regulations 2012 (2012 Regulations) been met?

Response

- 1.1 We consider that the Sustainability Appraisal (SD03.01) ("SA3") is inadequate and legally flawed for the following reasons:
 - 1.1.1 Reason 1: The SA was originally premised on a review of the 2015 Chichester Local Plan: Key Policies 2014-2029 (CLP) (CD01) whereas now what is proposed is a new plan for 2021-2039. The two are fundamentally different, requiring different SA work;
 - 1.1.2 Reason 2: No sufficient explanation has been provided for the change from a review of the 2014-2039 plan period to the adoption of a new plan period 2021-2039;

- 1.1.3 Reason 3: The SA process has used vague and limited reasoning for dismissing potential options and at times the outcomes appear contrived to reach pre-determined outcomes and to avoid the need to return to a Reg 18 stage of plan preparation; and
- 1.1.4 Reason 4: The reliance on strategic highways issues to impose a cap on housing development is fundamentally flawed.

Reason 1

- 1.2 The SA supports what was supposed to be a quick and targeted review of the 2015 Chichester Local Plan: Key Policies 2014-2029 (CLP) (CD01). This was required by the Inspector in her decision letter of May 2015 (para 56) to address a housing shortfall and to ensure the Plan can be “updated to take account of emerging evidence on highway infrastructure and rigorous testing of the impacts of providing housing up to the OAN or any updated OAN.” This quick review, which was supposed to be completed by 2020, has not eventuated. Rather than preparing a new plan and developing a new approach based on up-to-date evidence the Council is continuing with the approaches and concepts developed by the 2015 plan, some of which date back to 2009.
- 1.3 The first two SA’s were specifically constrained in their scope by the fact that they were only considering a review of the adopted plan through to 2029. As a result they expressly excluded options that would not deliver within the plan period. For example, the Reg 18 SA expressly excluded the consideration of sites of 1,250 and new settlements (see paras 4.1.2 and 4.4.3 of CD06.02). The local plan as submitted adopts the approach to housing distribution and growth that came from the initial SA work. This is obviously an impermissible approach. Having decided to increase the scope of the local plan from a review of the adopted plan through to 2029 to the creation of something else that would run to 2039 it was necessary for all possible options for the new plan to be considered. They were not because they had been screened out by the original SA work. This fatally flaws the plan that has now been submitted for examination.

Reason 2

- 1.4 Up until 2018 the SA was based on assessing approaches and requirements for a review of a plan with a plan period from 2014 to 2029 . By Jan 2023 the SA was assessing a plan period from 2021 to 2039 and implying a shift from a review of the 2015 plan to preparation of a new plan. We have been unable to locate any evidence or Council

decision-making that justifies this change. It seems extremely problematic to extrapolate the findings of SA's that were considering a limited review to a plan that ends in 2029 to something that is set to run to 2039. The scope of what was considered in the original 2 SA's would be entirely different if they were considering a full-blown new plan through to 2039. This change seems to be a fundamental flaw in the SA and the plan making process that is incapable of being remedied

Reason 3

- 1.5 The SA process has used vague and limited reasoning for dismissing potential options and at times the outcomes appear contrived to reach pre-determined outcomes and to avoid the need to return to a Reg 18 stage of plan preparation. Key examples include:
 - 1.5.1 Dismissing higher housing numbers. Options for delivering 650, 800 and 1000 dpa were considered in the SA - Preferred Approach 2018 (CN06.02). The 1000dpa was dismissed as biodiversity, WWT capacity, traffic congestion and landscape were identified as being unable to be fully mitigated. With the 800dpa negative impacts on biodiversity, landscape/townscape were identified as being harder to avoid but the transport and air quality impacts were seen as still being capable of mitigation. The need for additional wastewater treatment capacity needed was seen as delaying housing delivery and space for SUDS, green infrastructure and other benefits likely to diminish. A number of positive benefits were identified. Option 1 (650 dpa) was selected as the preferred option and this has been maintained through subsequent SA processes, despite later evidence studies testing higher figures and finding these could be accommodated. There was no explanation why Option 1 was selected other than "likely impacts and national planning policy" (Para 4.3.4)
 - 1.5.2 Use of an artificial constraint on size of sites. A limit of 1,250 housing units on sites was introduced in the Preferred Approach SA (CN06.02) on the grounds that the sites could not be delivered in the plan period (para 4.1.2). Deliverability was the main reason for the new settlement spatial strategy option not being taken forward (para 4.4.3). This is a flawed approach as large sites often deliver over several plan periods and contribute to are almost certain supply and trajectories for both. Large sites offer many positive benefits in terms of ability to undertake holistic masterplanning and provide meaningful supporting infrastructure. It is considered a flaw and inappropriate response to have effectively excluded contributions from larger sites in the SA process.

- 1.5.3 The assessment of spatial strategy options in the Preferred Approach SA (CN06.02). 5 different spatial options were considered based on the preferred number option of 650dpa before a devised sub-option based on an East West Strategy with reduced numbers on the Manhood Peninsular was developed which became the preferred approach (para 4.7.3). There is no clear explanation or detailed assessment supporting this choice. A new settlement option was discounted due to long lead in times (para 4.4.3). As a result, the assessment of some options is lacking in robust detail and an inadequate evidence base.
- 1.5.4 Northern area – Section 6.3 of the SA 2023 SA (SD.03) explores what the Council consider are the reasonable alternatives for the north-east plan area. Two key points highlighted in discounting a higher growth figure for Loxwood is the absence of primary provision in some villages and in Loxwood in particular, the higher growth figure could result in piecemeal development to the west of the village. We would suggest it is the contrary if a higher growth figure is considered for two reasons. Firstly, the higher growth figure would most likely support the delivery of a primary school. Secondly, a higher growth figure would allow for an area to the west of Loxwood to be masterplanned properly to avoid a piecemeal approach, or at least provide the framework to avoid this.
- 1.5.5 In the event of the lower figure being adopted, piecemeal development will be inevitable, created by the future Local Plans as they incrementally added housing numbers to the village in the future, rather positively planning for it at this stage, with appropriate infrastructure. In respect of Loxwood, the SA goes on to state: *"...even under the highest growth scenarios, it is not clear what strategic community infrastructure would be delivered to the benefit of the existing community / the village as a whole."* This conclusion demonstrates a clear lack of strategy and understanding what is required for the northern villages and does not seek to address it through a positively prepared Plan. We understand that smaller villages (such as Kirdford and Alfold) may not be able to a higher scale of development, therefore, the focus should and can be on Loxwood at it can address the two main concerns of the SA. This links to our points below in relation to question 3 and reasonable alternatives.
- 1.6 These concerns have been compounded by the Council's reliance on evidence submitted after the submission of the Plan for examination. The SA was published in January 2023 but subsequent further evidence has been produced post Reg 19 (including post submission) which cannot have been considered in the SA process. Details of these documents are contained in Appendix 1.

- 1.7 These additional documents relate to core evidence base and after the event justification for the plan. Not only have interested parties been denied the opportunity to make representations on this material, some of this additional evidence should have informed the preparation of the plan and development of its spatial approach. Particularly critical late introduced evidence relates to transport, housing, infrastructure, climate change, nutrients and flooding.

Reason 4

- 1.8 The Jan 23 SA (SD.03) (SA3) identifies that the standard method provides a Local Housing Need (“LHN”) of 638 dwellings per annum. Para 5.2.11 of SA3 provides three reasons for setting the housing requirement at a figure below the LHN:
- The capacity of the A27 acts to “cap” the development of the southern plan area to 535dpa;
 - Planning reasons suggest the north eastern area cannot meet the shortfall; and
 - There is potential for unmet need to be addressed through a Local Strategy Statement (LSS) prepared by the Coastal West Sussex and Greater Brighton Planning Board.
- 1.9 The second and third of these reasons are premised on the first reason. Accordingly if the first reason is incorrect then the others do not arise and there is no reason why the Local Plan cannot plan to meet its LHN.
- 1.10 CDC’s own evidence (Transport Background Paper – paras. 5.47 and 7.14) acknowledges that the transport model needs to be updated. Consequently, it is unreliable for the purpose of properly understanding the impact of development scenarios and by extension it is inappropriate to “cap” housing numbers of this basis. A sound transport strategy cannot be developed in the absence of an accurate and reliable model. With these inherent flaws, the model cannot be relied upon as adequate and proportionate evidence.
- 1.11 Even if the significant flaws outlined above are set aside, the 2023 Transport Assessment suggests that 700 dwellings per annum could be accommodated in the southern plan area by the mitigation proposed for the 535 dwellings per annum scenario, although additional mitigation may be needed at the Portfield roundabout and the Oving junction, albeit the Oving junction mitigation improves the A27 flow. This reflects previous sensitivity testing in which stated that “in the main, the 700dpa demands can generally be accommodated by the mitigation for the 535 dpa scenario,

although at the Portfield roundabout and Oving junction capacity issues get worse with the 700dpa demands and these junctions may need to consider further mitigation” (Para 5.40 of the TBP)

- 1.12 Overall, the SA is not considered adequate on the grounds that it excluded some potential options using flawed and limited justifications, it could not incorporate evidence material produced subsequent to the Jan version of the SA and seems to be seeking to perpetuating a spatial approach developed for the 2015 CLP without open-minded consideration of other alternatives.

Q3. Is the SA sufficiently clear as to how reasonable alternatives have been considered and compared through the various stages in plan making?

Response

- 1.13 It is not considered that the SA is sufficiently clear as to how reasonable alternatives have been considered and compared.
- 1.14 SA3 is the final iteration of the SA process and is informed by the previous SA's. For the reasons set out in response to Q2 that is a flawed approach. In any event the reasoning contained within the SA's is insufficient to allow readers to understand the decisions that have been made contrary to the legal requirements (for example [40] of *Save Historic Newmarket Ltd v Forest Heath DC* [2011] EWHC 606 (Admin) and [12] of *Heard v Broadland DC* [2012] Env. L.R. 23).
- 1.15 The Reg 18 SA (CN06), when justifying the options chosen to take forward, stated:
“4.7.3 On the basis of the appraisal above, and taking into account other evidence and considerations, it is recommended that Option 1A is identified by the Council as the preferred option for its Local Plan Review.”

“8.5 On this basis of the SA and taking into account other evidence and considerations, Option 1A is recommended to be taken forward as the Preferred Option for the Local Plan Review. The pre-existing work on Strategic Development Locations has informed the production of specific policies on these locations (see Appendix).”
- 1.16 These paragraphs make it clear that the justification for the Options being chosen for further consideration is not informed simply by that SA but by “other evidence and consideration”. However, there is no identification of what the “other evidence and

considerations” were that informed the choices made and nor was that information provided in SA3.

- 1.17 As noted in para 1.1(d) the decision making on how some of the options relating to numbers and the spatial strategy were ruled out is vague and lacking in detail. The conclusions generally reference lack of infrastructure, but through a new properly considered strategy, most of these shortcomings could be easily addressed.
- 1.18 Earlier versions of the SA considered growth figures of 800 and 1,000 dpa, but the 2023 SA (SD.03.01) now states these to be “safely ruled out as unreasonable” (para 5.2.13). This is despite later Transport evidence (TA04.01 paras 5.6.5 and 11.2.3) indicating that higher growth could be accommodated. References are made in para 5.2.11 to the reasons why the uplift was ruled out, but that para. is not conclusive on the point to ‘safely’ rule out higher growth options.
- 1.19 Options relating to large sites and new settlements were dismissed at an early stage in the SA process. With changes in behaviour, lifestyles, housing and new evidence these options should have been re-appraised and robustly considered, even if it meant having to return to a Reg 18 stage of plan making.
- 1.20 The SA fails to consider all reasonable alternatives, which includes meeting the local housing need, or a higher figure. This is essential given its own significant needs as well as those of adjoining authorities.

Appendix 1: Evidence base documents published after Reg 19 consultation close

Evidence base and strategy documents published after close of Reg 19 consultation and before submission:

Document	Doc reference	Date
Water Neutrality – Joint Topic Paper	CC20	May 23
Water neutrality – Progress Update	CC21	July 23
Residential Space Standards Evidence Study	PH04.01	Aug 23
Water Neutrality – Project Update	CC22	Oct 23
Caravan and Houseboat Needs Assessment	HO1	Nov 23
Level 1 Strategic Flood Risk Assessment (SFRA) Level 1 (December 2023)	CC05	Dec 23
Level 2 SFRA	CC7	Dec 23
Level 1&2 Appendices	CC8	Dec 23
Review of Playing Pitch Strategy	PH02.04	Feb 24
Wastewater Treatment Headroom	CC11	Mar 24
WWTW – Review of Position Statement for Thornham	CC16	Mar 24
Custom and Self Build Note	H13	Mar 24

Evidence base and strategy documents published post submission:

Document	Doc reference	Date
Gypsy, Traveller and Travelling Showpeople Assessment	HO2	April 24
Housing Density Evidence Study	PH01.01	April 24
Transport Study + 16 appendices & 3 annexes	TA03.01-19	April 24
Statement of Consultation (Reg 22 (c))	SD05	April 24
Duty to Cooperate Statement of Compliance	SD06	April 24
Sequential Test	CC04	April 24
Addendum to Habitat Regulations Assessment: Pre-Submission Modifications	SD11	April 24

Document	Doc reference	Date
Indoor and Built Sport and Leisure Facility Needs Assessment	PH02.07	April 24
IDP	IN.01	April 24
Open Space, Sports Facilities, Recreation Study and Playing Pitch Strategy – Open Space Update 2024	PH02.01.01	May 24
Climate Change Background Paper	BP01	May 24
Economic Development and Employment Background Paper	BP02	May 24
Gypsy, Traveller and Travelling Showpeople Background Paper	BP03	May 24
Horticultural Development Areas Background Paper	BP04	May 24
Housing Distribution Background Paper	BP05	May 24
Housing Need Background Paper	BP06	May 24
Housing Supply Background Paper	BP07	May 24
Nutrient Budget Background Paper	BP08	May 24
Retail Background Paper	BP09	May 24
Settlement Boundaries Background Paper	BP10	May 24
Settlement Hierarchy Background Paper	BP11	May 24
Southbourne Broad Location for Development Background Paper	BP12	May 24
Strategic Wildlife Corridors	BP13	June 24
Transport Background Paper	BP14	July 24
Joint Water Neutrality Topic Paper Policy Update (July 2024)	PS/CC20a	July 24
LDS 2024-2027 (Revised July 2024)	PS/CD03a	15/08/24