

Chichester Local Plan 2021-2039

Response to Matter 3 - Spatial Strategy

*Written Note supporting update to
Strategic Flood Risk Assessment (SFRA)
modelling following Stubcroft Farm
appeal decision
&
Technical Note v4 / November 2024*

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Relating to Matter 3: The Spatial Strategy & evidence base

Inspector question / issue:

The Inspectors wish to provide hearing participants with the opportunity to explain briefly in writing what implications, if any, these documents have for the cases they have made. This is not an opportunity to introduce new arguments or evidence, so please only comment on the basis set out above.

The Strategic Flood Risk Assessment is a background document for the Local Plan. In considering the documents and any responses received, the Inspectors will have in mind NPPF35 which says *'The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals'*.

Response

- 1.1 The proposed distribution of development (Spatial Strategy) has been guided by a number of influences. These are:
- 2015 Local Plan and Inspector's instruction to complete a review within 5 years,
 - SA process and
 - Key evidence base documents:
 - Transport Study – January 2023 - A27 capacity
 - Strategic Flood Risk Assessment – December 2022
- 1.2 We have previously set out our position in relation to these matters so will not repeat those. However, we maintain that it is unfortunate that key evidence base that should under-pin the development of a spatial strategy was published after the close of the Regulation 19 consultation. In light of this, it remains difficult to see how the distribution of the housing in the plan is justified.
- 1.3 In terms of the SFRA, the Council have provided two documents to address what its witness confirmed at the Stubcroft Farm Inquiry as 'fundamental errors' in the flood modelling undertaken. This was confirmed in evidence in chief by the Council's witness. Despite that, what was reported to the Examination on 9 October 2024 was that there were some minor errors that require updating. These two conclusions are very different from one another. The two new documents provided for comment include:
- Written Note supporting update to Strategic Flood Risk Assessment (SFRA) modelling following Stubcroft Farm appeal decision
 - Technical Note prepared by JBA - v4 / November 2024
- 1.4 The new document includes a series of plans, with no background data to interrogate what the new outputs are derived from and therefore it is impossible to comment on validity / robustness of the additional work undertaken. This is the same position which our client found themselves in when the original SFRA was published late in 2022, and the Council took until May 2024 to provide the relevant background data for assessment.
- 1.5 On the basis of the same approach being taken to not make available the relevant background data, our client is unable to agree or disagree with the Council's conclusions on the updated flood maps. This information should be publicly available for review as

part of this consultation. Until such time as this information is made available, interested parties will not be able to confirm their position.

- 1.6 The additional information provided does not appear to be prepared in consultation with the relevant statutory consultee, which in the case of flood risk is the Environment Agency (EA). There is a clear procedure which JBA and Council should have followed before publishing their revised model outputs to ensure it is fit for purpose. Without these checks and measures and approval process, this model cannot be considered robust or reliable.
- 1.7 We have argued and still maintain that these checks and measures, i.e. the EA Evidence Risk and Review Team Real Time review process, has not satisfactorily completed and in the case of the latest update to the undefended model not completed at all. Standing advice is provided on this matter¹, with the following text being of most relevance:

The Environment Agency uses your SFRA to inform their advice to you about the local plan or spatial development strategy

You should review your SFRA after a significant flood event (In this case Storm Kathleen)

You may be able to commission modelling with other planning authorities, the Environment Agency or relevant developers to share the benefits and costs. Any new modelling will need to go through a transparent quality assurance process to make sure it is fit for purpose. Contact your local Environment Agency office for the available data and to discuss joint working and quality assurance.

Follow the modelling standards

The Environment Agency has published standards for flood risk modelling. These set out best practice techniques for producing evidence of flood risk.

Your model should comply with the appropriate flood risk modelling standards:

<https://www.gov.uk/guidance/using-modelling-for-flood-risk-assessments>

¹ <https://www.gov.uk/guidance/local-planning-authorities-strategic-flood-risk-assessment>

- 1.8 The EA review process requires adherence to the Jacobs (2021) Coastal Modelling Standards Update Rev 1.1 which we are aware has not been followed as well as other EA guideline, namely: Coastal Standards Technical Report (LIT 56561). So, we have an evidence base that does not follow the current and up to date modelling standards. There is no reason for failure to follow these standards, however, maintaining its outputs, despite appropriate update has a significant bearing on the Council's spatial strategy, which is currently derived from their out-of-date evidence base.
- 1.9 Notwithstanding the absence of supporting information and lack of adherence with relevant standards, the additional information has not responded to the previous concerns identified. This includes the following highlighted issues:
- Modelled to include sea defences, where none exist
 - Considers inappropriate crest widths, which have a knock-on effect of significant wave overtopping resulting in future flood risk scenarios and large extents of flood risk.
 - Modelling reasonable assumption of crest widths, significantly alter extents of flood risk
 - Inconsistent approach taken to different parts of the coastline, which appear to result in potential development areas / settlements being at greater risk of flooding
- 1.10 The EA have not approved previous tweaks to the flood modelling and the further model is in the same position. Additionally, the Council maintain that the use of a zero-crest width is appropriate for a very small part of the coastline (1km stretch) which comprises segments 74 and 75, which is part of the beach serving part of East Wittering and Bracklesham and this is the point at which flood risk is significantly increased.
- 1.11 No evidence is provided to demonstrate why this particular section of beach should be modelled at a zero-crest width and not every other point along this stretch of coastline, which if taken from the west side of Pagham Harbour to East Head, West Wittering is a stretch of 16-17km of coastline. All other segments have a crest width of circa 4 – 14metres plus. In particular, 9metres is modelled for the section of beach directly east of segments 74 and 75 (segment 73). Despite the fact that in a lot of cases there is not built form behind it, which is the case for Bracklesham and East Wittering, with the built form assisting in stabilising the beach.
- 1.12 A zero crest is generally used when there is a sea wall / defence. In this case, there are no formal sea defences / barriers in place, which is confirmed by the EA. No clear justification

is used to justify the zero-crest width at this point, nor is there any evidence to suggest that it has occurred in the past. This is the single most important point in determining future risk as it is common ground (at the Stubcroft Inquiry) that a crest width of anything in excess of 1.67metres along this stretch means that that the level of flood risk is almost completely removed. Accordingly, clear justification or evidence is required in that regard, which does not exist.

- 1.13 In terms of the NPPF, as quoted by the Inspector, paragraph 31 of NPPF (September 2023 version) states:

31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

- 1.14 On the basis of the evidence base being out of date and inconsistent with current standards, the Local Plan is not underpinned by relevant and up-to-date evidence. The impact of the inaccurate SFRA means that the approach to the spatial strategy is based on inaccurate information and results in a large part of the district being excluded as a potential development area.
- 1.15 The reason this is important is that the council is artificially restricting the delivery of housing in an area currently identified as a strategic development area in the adopted Local Plan.
- 1.16 Whilst it is accepted that the Plan is being assessed in line with the September 2023 version of the NPPF, the newly adopted NPPF places a very clear emphasis on housing delivery and the Council are required to undertake an immediate review in line with this approach. To adopt a plan now in line with this evidence base will cause them significant problems in the future in identifying the relevant quantum of homes / land to meet the requirements.
- 1.17 The Council appear to be relying on an inaccurate evidence base to limit housing numbers. This approach is at the very least unhelpful for future plans, where they will be required to meet a new housing figure of 1,305 (updated standard housing method figure). More than doubling the current housing proposed in the draft Plan. Rowing back on a constraint such as in-accurate flood model will be a difficult matter for the Council to address and we suggest that this should be addressed now, as opposed to following the adoption of a plan which would endorse an inaccurate flood model.

- 1.18 In terms of the Written Note...following the Stubcroft Appeal decision, paragraph 1.4 of the note states:

...In both cases the Inspector dismissed the appeals noting that the appellant had not demonstrated that the site is suitably safe from the risks of coastal flooding and that the uncertainty around coastal modelling and flood risk should give rise to a precautionary approach when establishing the suitability of land within those flood risk areas for development...

- 1.19 The Inspector does conclude this, but on the basis that the Council's evidence is not robust and in the absence of confidence on any other model, the appeal was dismissed on sequential test grounds. The Inspector did not rely on the SFRA, but given its findings that were not considered robust, took a precautionary approach to the decision making on flood risk matters.

- 1.20 Paragraph 1.4 of the note then goes on the state:

...The outcome of the appeal reinforces the decisions which have been made in relation to the spatial strategy and allocation of strategic sites within the submission Local Plan. In this regard it is considered pertinent that the Inspector in relation to the Stubcroft appeals emphasised the significance of the site access being affected by flood risk, which was a particular concern of the council's in relation to the site options at Selsey. Nonetheless, the council will continue to consider how the housing needs of the Manhood Peninsula can be addressed moving forwards, both in the Site Allocation DPD and in the next Local Plan.

- 1.21 This paragraph overplays the Inspectors conclusions. The Inspector was very clear that he did not have sufficient information to determine the appeal positively on flood risk matters. This was on the basis of polar differences between the approaches of the respective parties. However, at no point did the Inspector endorse the draft Spatial Strategy (to do so would be inappropriate and irrational). The extract above goes on to suggest that notwithstanding their position on current flood risk, they will consider housing needs of the Manhood Peninsula.

- 1.22 As set out above, it is our recommendation that the future flood risk mapping must be addressed now and not in the future. Drawing back from the current, inaccurate position, if endorsed will make all parties approach to meeting needs for housing in the coastal villages more challenging and contradictory.

- 1.23 Overall, the SFRA remains unfit for purpose and suitable to be relied on for decision making purposes for the following reasons:
- i. Not prepared in line with required modelling standards and appropriate consultation with the EA
 - ii. Not endorsed by the EA
 - iii. Relevant background data not produced for review as part of the consultation
 - iv. Artificially constrains the District that has a current and acute housing need, in particular affordable housing
- 1.24 To reiterate our previous points as to why this is relevant and important, this is a fundamental issue that undermines the soundness of the plan as flood risk has been relied on to restrict both the level of housing growth and the distribution of housing. This is made clear, for example, at 5.2.35 – 5.2.39 of the SA (SD03). This has resulted in East Wittering/Bracklesham being excluded from consideration within the Spatial Strategy. If the SFRA is flawed, which it is for the reasons set out above, then the strategy based on it is flawed.
- 1.25 This is a particularly acute problem given the plan does not attempt to meet its standard method Local Housing Need. Were the Spatial Strategy informed by reliable flood risk assessments then increased housing numbers and other housing locations would have been considered.
- 1.26 The future flood risk scenario remains to be suitably evidence and justified, which affects the soundness of Plan. The adoption of the Plan in this current form would be contrary to the requirements of paragraph 31 of the NPPF.