

Shoreham Harbour JAAP – Inspector’s Initial Questions

1. Do Adur and Worthing remain separate Councils, with a joint services arrangement?

Adur District Council and Worthing Borough Council are separate local authorities. The two councils established a joint senior officer team in 2008 and services are now provided by joint teams.

The two councils have separate development plans for their local planning authority areas (parts of both districts are within the South Downs National Park). Worthing Borough Council is not part of the Shoreham Harbour Regeneration Partnership.

2. Have trigger points and mechanisms for a review of the plan been identified and, if so, where are these listed?

The local planning authorities have not identified specific trigger points for a review of the Joint Area Action Plan. The plan is intended to provide certainty as to the joint vision for the regeneration area, whilst also allowing flexibility as circumstances change.

The draft revised National Planning Policy Framework states that:

“Policies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary”¹.

Delivery of the plan proposals will be monitored through the Authority Monitoring Reports (AMR) of each authority. The monitoring framework for the plan is set out in the Sustainability Appraisal. This will allow any issues arising to be identified and addressed, if required triggering a review of the Local Plan and/or other Development Plan Documents including the Joint Area Action Plan.

AMR findings will be reported to the Shoreham Harbour Regeneration Project Board and Shoreham Harbour Regeneration Leaders Board. These boards direct the work of the Shoreham Harbour Regeneration team, including the potential for a plan review.

Alternatively, matters requiring review could be addressed within the Adur Local Plan and/or Brighton and Hove City Plan as appropriate. This may depend on the particular issue(s) and/or timing of the relevant plan review.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685289/Draft_revised_National_Planning_Policy_Framework.pdf

Does the plan include a housing trajectory?

The Joint Area Action Plan does not include a housing trajectory specifically for the Shoreham Harbour Regeneration Area. The housing allocations in the joint area action plan are included in the housing trajectories for the Adur Local Plan area and the Brighton & Hove City Plan area.

The latest trajectory for Adur can be found on page 30 of the Annual Monitoring Report (2017)².

The latest trajectory for Brighton & Hove can be found on page 27 of the Strategic Housing Land Availability Assessment Update (2017)³.

3. Was mitigation through avoidance or reduction measures taken into account as part of the Habitat Regulations Assessment screening of Adur Local Plan and Brighton & Hove City Plan, and the JAAP? Are the Council's content that the screening undertaken is legally compliant in light of the recent CJEU judgement (Case C-323/17) in *People over Wind, Peter Sweetman v Coillte Teoranta*?

The HRA screening for Adur Local Plan considered potential impacts on the 3 closest European sites – Arun Valley SAC, SPA & Ramsar, Castle Hill SAC and Lewes Downs SAC and in all 3 cases screened out any potential impacts due to the considerable distances of these sites from the Adur District boundary.

The Brighton & Hove City Plan Part One HRA screening also screened out any potential impacts on those sites together with Pevensy Levels SAC & Ramsar and Ashdown Forest SAC & SPA, although the latter two sites are well over 20km from the regeneration area.

More recently BHCC has commissioned an HRA screening report for City Plan Part 2. This report post-dates the CJEU judgment and has now been published ahead of the forthcoming consultation on draft CPP2. It screens out any potential significant impacts on Castle Hill, Lewes Downs, Arun Valley and Pevensy Levels. Further appropriate assessment is currently being undertaken to screen out potential air quality impacts on Ashdown Forest due to increased traffic with the results of the AA expected to be published by the end of this month. However, all of the Shoreham Harbour regeneration area lies more than 28km from Ashdown Forest, so traffic movements from that part of the city affecting Ashdown Forest are likely to be negligible.

² <https://www.adur-worthing.gov.uk/media/media,147206,en.pdf>

³ <https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/SHLAA%202017%20-%20February%202018.pdf>

The HRA Screening report for CPP2 can be viewed at <https://www.brighton-hove.gov.uk/content/planning/planning-policy/city-plan-part-two>

The Habitats Regulation Assessment Screening Report (Submission Document: CSD04/06) finds that:

"Shoreham Harbour is situated a significant distance from any European designated sites, therefore no pathways or impact are likely to occur. As such, the proposals can be screened out."

Since the Joint Area Action Plan is consistent with the policies contained in the Brighton & Hove City Plan Part 1 (and emerging City Plan Part 2) and Adur Local Plan and is not proposing any additional development, the HRA work undertaken to support the local plans is relevant. The HRA work for both the Adur Local Plan and the Brighton & Hove City Plan (which has been updated in the recent HRA screening report for City Plan Part 2) have screened out any potential impacts from proposed development on European sites both in isolation and combination due to distance and/or negligible impacts on identified pathways. These conclusions have been reached without assuming any avoidance or mitigation measures and are therefore not affected by the recent CJEU ruling. The councils are therefore content that the screening undertaken remains legally compliant.

4. In terms of the flood risk sequential test, what geographic area was used to assess the availability of alternative sites at a lower risk of flooding?

The development allocations in the Joint Area Action Plan were subject to flood risk assessment through the Sequential and Exceptions Tests carried out in the preparation of the Adur Local Plan (adopted 2017) and the Brighton & Hove City Plan Part One (adopted 2016). Both Adur District Council and Brighton & Hove City Council assessed sites within the geographic area for which they are the local planning authority (that is, the district/city excluding areas that fall within the South Downs National Park).

The Brighton & Hove Sequential and Exceptions Tests⁴ conclude that all proposed City Plan allocations (including DA8 - Shoreham Harbour) pass the Sequential Test. However, due to the risk of flooding encountered on some sites at Shoreham Harbour, as well as the high vulnerability classification of the proposed development here, the Exception Test was

⁴ https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/Sequential%20&%20Exceptions%20Test%20Update%20July%202014%20FINAL_0.pdf

also applied. It was found that the wider sustainability benefits of development at Shoreham Harbour outweigh the flood risks encountered.

Adur District Council has also carried out Sequential and Exception Tests⁵. Whilst the Shoreham Harbour regeneration area passes the Sequential Test, again, due to the risk of flooding encountered and the high vulnerability classification of the proposed development, the Exception Test was also applied.

It was found that the wider sustainability benefits of development at this location outweigh the flood risks encountered. As such, Shoreham Harbour passes the Exceptions Test considered by both councils. The Exception Tests document states that a site-specific FRA will be required at the planning application stage.

The Shoreham Harbour Flood Risk Management Guide Supplementary Planning Document (Submission Document: LPD04/01)⁶ sets out the mitigation requirements for each of the four allocations in the Shoreham Harbour Joint Area Action Plan.

5. Proposed Main Modification MM2 and MM5 (district heat network) - has the proposed requirement for development in defined areas to connect to new network been subjected to viability testing?

Proposed modification MM2 adds additional background text to:

- reflect current National Policy – as set out in the Climate Change Act⁷ (Submission Document: NPD02/04), National Planning Policy Framework⁸ (Submission Document: NPD01/01), Clean Growth Strategy⁹ (Submission Document: NPD04/02)
- provide a factual update on progress of the Shoreham Heat Network

The modification does refer to the requirement for new development to connect to the proposed network. However, this is not a significant change in itself, as it was already a policy requirement. Paragraph 3.1.15 and Clause 6 of Policy SH1 in the Proposed Submission Shoreham Harbour Joint Area Action Plan both referred to the requirement for development to connect to the network, or to be designed to be compatible for future connection.

⁵ <https://www.adur-worthing.gov.uk/media/media,138952,en.pdf>

⁶ <https://www.adur-worthing.gov.uk/media/media,136867,en.pdf>

⁷ <https://www.legislation.gov.uk/ukpga/2008/27/contents>

⁸ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/700496/clean-growth-strategy-correction-april-2018.pdf

The proposed Shoreham Heat Network is located entirely within Adur. It is already the council's adopted policy that all development should connect, or be future proofed to connect at a later date. Policy 8: Shoreham Harbour Regeneration Area of the recently adopted Adur Local Plan¹⁰ (Submission Document: LPD01/01) states:

"Development will be expected to incorporate low and zero carbon decentralised energy generation, in particular heat networks, and required to either connect, where a suitable system is in place (or would be at the time of construction) or design systems so they are compatible with future connection to a network."

Proposed Modification MM5 commits the councils to supporting the development of networks and refers to the most recent evidence. The requirement for development to connect to the network is unchanged.

As the requirement for development to connect to the proposed heat network is an existing policy requirement, and has been included in previous iterations of the Joint Area Action Plan, the Whole Plan Viability and Deliverability Study did consider the impact on development viability of connecting along with other policy requirements. The study takes a conservative approach and assumes an additional cost for this. However, it was not possible to reflect the avoided costs inherent in installing a communal system rather than individual boilers. Nevertheless, development at the Western Harbour Arm (the location of the proposed heat network) was found to be viable.

6. Has the proposed MM5, concerning the proposed change to Policy SH1 (6), been the subject of any further consultation, prior to submission?

Proposed Modification MM5 has not been subject to further consultation, prior to submission. The amendment states that the councils will support the development of heat networks. This is a statement of the councils' position following the formation of the Shoreham Heat Network Partnership. The requirement for development to connect to the network is unchanged from the Proposed Submission Shoreham Harbour Joint Area Action Plan. We expect to consult on the proposed modifications to the plan in due course, should the Inspector feel that it is appropriate to do so.

7. In relation to proposed MM2, is there a requirement for Environmental Permits for all sizes of marine source heat pumps?

Proposed Modification MM2 refers to the requirement for appropriate environmental permits. This relates to the abstraction and discharge of water, rather than to the heat pump itself. An abstraction license would be

¹⁰ <https://www.adur-worthing.gov.uk/adur-local-plan/>

required. The Shoreham Heat Network Partnership is engaging with the Environment Agency on this issue. Water abstraction and discharge is subject to a regulatory framework separate to the planning system.

8. Has a specific infrastructure delivery plan been prepared for the whole of the JAAP area? Does this identify the importance of the infrastructure to the delivery of the plan policies (essential, important, desirable), in terms of the scale of its impact (regional, sub-regional, strategic, local), with estimated costs, an anticipated timescale for delivery and identified funding sources, for at least the first five years of the plan?

The JAAP does not have an Infrastructure Delivery Plan in its own right. Both Adur and Brighton & Hove have Infrastructure Delivery Plans for their local plan areas. These are submission documents LPD01/03 and LPD02/03 respectively.

These set out the infrastructure priorities associated with delivering the local plans, including the Shoreham Harbour Joint Area Action Plan. They clarify the organisation(s) responsible for delivering infrastructure, how it will be funded and when it is required.

9. Policy SH1(5) (including proposed MM4) – is the expectation to incorporate low and zero carbon, decentralised energy opportunities intended to apply to all new development, whatever the scale of the development proposed?

Clause 5 of Policy SH1 is intended to apply to all development. This reflects existing policies in both Adur and Brighton & Hove and ensures a consistent approach across the regeneration area.

Policy CP8 Sustainable Buildings of the Brighton & Hove City Plan includes the expectation for all development to demonstrate how the development facilitates on-site low or zero carbon technologies, in particular renewable energy technologies.

Policy 8: Shoreham Harbour Regeneration Area expects all development to incorporate low and zero carbon decentralised energy generation.

Policy 19: Decentralised Energy, Stand-alone Energy Schemes and Renewable Energy in the Adur Local Plan includes the requirement for major development to incorporate renewable/low carbon energy production equipment to provide at least 10% of predicted energy requirements.

Proposed Modification MM4 is intended to reflect the councils' support for renewable and low carbon energy generation across the regeneration area.

10. Which document(s) sets out how issues of air quality and pollution have been considered?

Air quality and pollution have been identified as an issue in the Joint Area Action Plan. There are two Air Quality Management Areas (AQMAs) that are partly within the regeneration area – the Shoreham AQMA and the Brighton AQMA. The Southwick AQMA is outside the regeneration area, but nearby. These areas are designated due to non-compliance with the national air quality objective for Nitrogen Dioxide.

The Sustainability Appraisal (SA) of the Joint Area Action Plan has assessed the proposals in the plan against sustainability objectives including to minimise air quality and noise impacts. These are the main documents that set out how issues of air quality and pollution have been considered.

The SA of the 2014 draft plan found that the proposals for South Portslade and the Western Harbour Arm had the potential to have a negative impact on air quality, largely from increased traffic movements from residential development, although it also noted that there would be a reduction of industry related traffic movements in some locations due to the changes of land use. The SA noted that residential development was not proposed at the Church Road/Wellington Road junction where air quality is a particular concern.

The SA recommended that the plan include a requirement for development to be set back from the A259 to avoid a 'canyoning' effect – where polluted air is trapped between buildings. This requirement is stated in clause 11 of Policy CA3 and clause 11 of Policy CA7 (including Proposed Modification MM14)

The SA of the 2016 revised draft plan noted the potential for adverse air quality impacts due to increased vehicular movements from new development. However, it noted that proposals to encourage use of sustainable modes of transport and green infrastructure had the potential to help to mitigate the impacts of development on air quality.

The SA of the 2017 proposed submission plan notes that Policies SH5, SH7 and SH8 seek to address air quality emissions. In particular, the proposals in relation to green infrastructure have significant positive impacts.

11. Non-Technical Summary to the Sustainability Appraisal - is final table missing in Section 9?

The table was missing from the submitted electronic version. The table is not missing from printed versions. The version on the website has been updated to correct this error.

12. Were reasonable alternatives considered as part of the plan making process? If so, where are these identified?

Section 10 of the Sustainability Appraisal sets out the reasonable alternatives that have been considered as part of the plan making process.

The Joint Area Action Plan has been prepared to accord with the broad location policies in the Adur Local Plan and the Brighton & Hove City Plan. Alternative quanta and types of development for the Shoreham Harbour Regeneration area have been considered in preparation of these plans, which are now adopted.

13. Have proposed individual site allocations been subject to Sustainability Appraisal?

The Sustainability Appraisal has assessed the four allocations in the context of the policies relating to the relevant character area. These are: CA2, CA3, CA5 and CA7.

14. Whole Plan Viability and Deliverability Study (SED10-01): How have issues of viability and deliverability been identified within the JAAP?

Viability and deliverability are addressed in section 5 of the plan – Delivery and implementation.

Viability has been a key consideration whilst preparing the plan. The development allocations were established through the Capacity and Viability Study (CSD10/02).

15. Several representors have indicated that they wish to be heard. Have the Council had further discussions with these individuals and other representors following the consultation responses being received? Are the Councils aware of whether the representors consider that the proposed MMs would address the concerns expressed?

The councils have had discussion with the Environment Agency. It has submitted in writing that the proposed modifications address its concerns and therefore withdraw the representation objecting to the plan.

The councils have not had further discussions with other representors. The councils are not proposing modifications to address all objections, as it is

considered that some changes suggested by representors are unnecessary, or make the plan unsound. The Consultation Statement (CSD05/01) sets out the councils' response to each representation, and the reasons for accepting or rejecting proposed changes.