

Worthing Local Plan 2020 – 2026 Examination

Inspector: Steven Lee BA(Hons) MA MRTPI

Programme Officer: Chris Banks

Email: bankssolutionsuk@gmail.com **Telephone:** 01903 783722

Examination Website: www.adur-worthing.gov.uk/worthing-local-plan/submission-examination/

Inspector's Initial Matters, Issues and Questions to the Council – Version 1 (20 September 2021)

This note contains the Matters, Issues and Questions (MIQs) that I have identified in order to determine the soundness and legal compliance of the Worthing Local Plan (WLP). The MIQs will guide the hearing sessions and hearing position statements. The MIQs are based on the main issues identified by the Council, the response to my Initial Letter (document IL01) and other relevant issues raised by Representors.

Further information about the Examination, the hearings and the format of written statements can be found in the accompanying Guidance Note, which should be read alongside the MIQs.

Documents references in [squared brackets] are to the Examination Library which can be viewed on the Examination webpage or obtained from the Programme Officer. Where I have referred to 'suggested modifications' this refers to the Schedule of Proposed Changes put forward by the Council [CD/H/6]. The Examination Guidance Note provides further information about potential changes to the Plan.

In responding to the MIQs, there is no requirement to repeat representations or quote information that can be found in evidence documents. In addition, if the Council considers that the matter is adequately addressed in their response to my Initial Letter [WBC-E-02] then there will be no need to the repeat the answers given. Cross referencing to the relevant representations or parts of relevant documents will be sufficient. I also ask that answers focus on the question asked and are as concise as possible. For further guidance please refer to the Inspectors Guidance Note [IL04].

Should, as a result of these questions, changes be proposed by the Council to any of the policies or text then these should be included in an updated schedule of proposed changes to the submission plan [CD/H/6] which will be a 'live' document.

Matter 1: Legal Compliance and General Matters

Issue 1: Whether the Council has complied with the Duty to Cooperate (DtC)¹ in preparing the WLP?

- Q1. Is there any substantive evidence to demonstrate that, during the preparation of the Plan, the Council failed to engage constructively, actively and on an on-going basis with relevant authorities and prescribed bodies on 'strategic matters' applicable to the WLP?

Issue 2: Whether the Council has complied in all other respects with the legal and procedural requirements in preparing the WLP?

Sustainability Appraisal

- Q2. Has the formulation of the WLP been based on a sound process of sustainability appraisal (SA), as set out in the Submission SA Report [CD/H/14] and Draft Integrated Impact Assessment (DIIA) [CD/F/8]? In particular:
- i. Has the SA been prepared in accordance with The Environmental Assessment of Plans and Programmes Regulations 2004?
 - ii. Does the SA test the Plan against reasonable alternatives in terms of the overall strategy for growth and development, site allocations and policies?
 - iii. Has the SA been robustly prepared with a comparative and equal assessment of each reasonable alternative?
 - iv. Is the SA decision making and scoring robust, justified and transparent?
 - v. Has the Council provided clear reasons for not selecting reasonable alternatives?
 - vi. Is it clear how the SA influenced the WLP strategy, policies and proposals and how mitigation measures have been taken account of?
- Q3. In its response to my Initial Letter, the Council acknowledged that the Worthing Leisure Centre (site AOC4) had not been subject to individual SA. If this assessment had been carried out prior to submission, would this have made any difference to the strategy?

¹ Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended)

Habitat Regulations Assessment (HRA)

- Q4. Have the Habitat Regulations Assessment (HRA) [CD/F/8] and the HRA addendum submitted in response to my Initial Letter [CD/H/26] been carried out in accordance with the Conservation of Habitats and Species Regulations 2010 (as amended) and Habitats Directive? Is there any substantive evidence to indicate that the conclusions of the assessments are incorrect?

Local Development Scheme (LDS)

- Q5. Is the WLP compliant with the Council's Local Development Scheme (LDS) in terms of its form, scope and timing?

Public Consultation and Statement of Community Involvement (SCI)

- Q6. Is there any substantive evidence to demonstrate that the public consultation carried out during the plan-making process failed to comply with the Council's *Statement of Community Involvement* or other legal requirements?
- Q7. Was the Plan shaped by early, proportionate and effective engagement with communities, local organisations, businesses, infrastructure providers and operators and statutory consultees?

Public Sector Equality Duty

- Q8. In what way does the WLP seek to ensure that due regard has been had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

Climate Change

- Q9. Does the WLP, taken as a whole, include policies designed to ensure that the development and use of land in Worthing contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended)?

Issue 3 – General Matters

Monitoring

- Q10. To be effective, should the WLP incorporate the Monitoring Framework, as currently set out in Topic Paper 3 [CD/H/18]?

Strategic Policies

- Q11. Does the WLP clearly identify which policies in the Plan are strategic as required by paragraph 21 of the National Planning Policy Framework (NPPF)? In responding to this question, the Council are invited to suggest a modification to the Plan, as suggested in their response to my Initial Letter (paragraph 6.8).

Matter 2 – Broad Spatial Strategy and Strategic Policies

Issue 1 – Whether the spatial strategy of the WLP has been positively prepared, is justified, effective and will enable the delivery of sustainable development in accordance with national policy?

The Overall Spatial Strategy

- Q12. Paragraph 22 of the NPPF states that strategic policies should look ahead over a minimum period of 15 years from adoption. Is the WLP consistent with national policy in this regard?
- Q13. Is the spatial strategy for the broad location of development in Worthing, set out in Policy SS1, justified and appropriate for the sustainable development of the area when considered against reasonable alternatives? What alternatives were considered by the Council in terms of options for spatial distribution and why were these rejected?
- Q14. Is the strategic balance between development and the protection of the natural environment, including areas identified by policies SS4, SS5 and SS6, leisure and recreation uses and/or heritage assets appropriate and justified?
- Q15. Is the strategic balance between housing and other land uses appropriate and justified?
- Q16. Does the spatial strategy comply with national policy on flood risk? In particular, has it been informed by a Strategic Flood Risk Assessment (SFRA), based on the most up-to-date flood risk data and climate change allowances and taking advice from the Environment Agency?
- Q17. Is the spatial strategy and location of growth in the WLP justified and consistent with national policy, in respect of the modelling of its effects on the operation of the highway network, its potential to minimise the need to travel and maximise journeys by more sustainable modes of transport? In particular, what are the

cumulative impacts of the Plan on the A27 and are these able to be viably mitigated?

- Q18. Is the spatial strategy and location of growth justified and consistent with national policy in respect of its consideration of the impact of development proposals on air quality in Worthing?
- Q19. Is the WLP effective in the provision of infrastructure and local services to meet future development needs, in particular, those relating to education, transport, health and green infrastructure?
- Q20. Does the evidence on whole plan viability and infrastructure demonstrate that the spatial strategy can viably deliver the housing, commercial floorspace and infrastructure required to support the growth proposed?

Issue 2 – Whether Policies SP1, SP2 and SP3 are justified, positively prepared, effective and consistent with national policy?

- Q21. Is Policy SP1 necessary and does it serve a clear purpose, or does it duplicate the policies in the NPPF on sustainable development and decision-making? What is the justification for suggested modifications M1 and M1(a) and are they necessary for soundness?
- Q22. Is Policy SP2 justified, effective and consistent with national policy? What is the justification for suggested modifications M2 and M3 and are they necessary for soundness?
- Q23. In Policy SP3, what is the role of the Adur & Worthing Councils' Public Health Strategy? Does this identify specific needs that should be reflected in the Plan? Is criterion a. justified in expecting all new development to address health and well-being needs?
- Q24. In Policy SP3, what is the justification for requiring applicants to undertake a screening for a Health Impact Assessments (HIA) or submission of full HIA? Is it sufficiently clear under what would be required and the circumstances in which a full HIA would be necessary? Is it clear to decision makers how the HIA would be used to react to a development proposal?

Issue 3 – Whether policies SS4, SS5 and SS6 are justified, positively prepared, effective and consistent with national policy?

Countryside and the Undeveloped Coast (Policy SS4)

- Q25. Is criterion b. justified in expecting all development in the countryside to demonstrate that a countryside location is essential

to the proposed use and that it cannot be located in the built-up area? Are there no forms of development that would be considered acceptable in principle within the countryside? In this regard, is Policy SS4 internally consistent and compatible with controls set out in policies SS5 and SS6?

- Q26. The Council's response to my initial letter concludes that the WLP does not need to consider Entry-Level Exception Housing, as described in paragraph 72 of the NPPF, as there is no potential for any additional housing on the edge of the built-up area. Is this conclusion justified?
- Q27. What is the justification for suggested modification M7 and is it necessary to make the Plan sound?

Local Green Gaps (Policy SS5)

- Q28. Is the designation of Local Green Gaps (LGGs) positively prepared, justified and consistent with national policy? If so, have the boundaries of the LGGs been identified based on robust, proportionate and up-to-date evidence and a consistent approach to selection?
- Q29. Policy SS5 indicates that development within LGGs will only be permitted in exceptional circumstances. There appear to be no exceptions to this requirement. Is this approach justified for all potential forms of development?
- Q30. Further to the above, parts of LGGs are also identified as Local Green Spaces (LGS). Paragraph 103 of the NPPF states that policies for LGS should be consistent with those for Green Belts. Where LGG and LGS coincide, is it justified for LGG policy to be more restrictive than that for the Green Belt?
- Q31. Is it clear to decision makers what might constitute 'exceptional circumstances' in this context? Is it sufficiently clear to decision makers and developers how the four criteria would be assessed?
- Q32. What is the justification for suggested modification M8 and is it necessary to ensure the policy is sound?

Local Green Spaces (Policy SS6)

- Q33. Are the Local Green Spaces identified in Policy SS6 justified and consistent with paragraph 101 and 102 of the Framework, the latter of which states that such designations should only be used where the green space is:
- i. in reasonably close proximity to the community it serves;

- ii. demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- iii. local in character and is not an extensive tract of land.

Q34. Paragraph 103 of the NPPF states that policies for managing Local Green Space should be consistent with those for Green Belts. Further to this, and the Council's response to my Initial Letter, how does the policy address exceptions to 'inappropriate development' as set out in paragraphs 149 and 150 of the NPPF? Paragraph 11.11 of the response to my letter also recognises that inappropriate development should only be permitted in 'very special circumstances'. How is this reflected in Policy SS6? Is the policy therefore consistent with national policy?

Matter 3: Housing Provision

Issue 1: Has the WLP been positively prepared and is it justified, effective and consistent with national policy in relation to its provision for housing?

Housing Need

Q35. The Housing Implementation Strategy Topic Paper (HIS) concludes that the Council's Objectively Assessed Housing Need (OAHN), based on the standard method calculation of local housing need, is 14,160 between 2020 and 2036. This equates to 885 dwellings per annum (dpa). Is there any evidence to suggest that this is not a robust assessment of OAHN?

Housing Requirement and Overall Supply

Paragraph 11b of the NPPF states that strategic policies should, as a minimum, provide for objectively assessed needs for housing unless the requirements of criteria i. and ii. are met. Policy SS2 identifies a minimum housing requirement of 3,672 dwellings over the plan period (230 dpa). This equates to around 26% of the OAHN.

- Q36. Is the Council's housing requirement justified having regard to recognised constraints, including but not limited to land availability, viability and infrastructure? In particular:
- i. Does the evidence base support the restrictions on development outside the defined built-up area, including Local Green Gaps? Are they a justified constraint on development?

- ii. Has the potential for redevelopment of brownfield sites in the plan period been appropriately taken into account? Does the plan provide appropriate guidance for new housing on previously developed land?
 - iii. Does the evidence base demonstrate there are no other developable sustainable sites within the plan area during the plan period, including sites allocated for other uses?
- Q37. The HIS concludes that there is little to no headroom between the housing supply and housing requirement. In coming to this conclusion, has the Council taken into account the possibility that some sites may not come forward due to unforeseen circumstances? Has a lapse rate or allowance for non-deliverability been applied? In this regard, is the WLP sufficiently flexible to take account of changing circumstances?
- Q38. On what basis does Policy SS2 and the table on page 51 of the WLP include a windfall allowance of 67 dpa between 2023 and 2036. Is there compelling evidence that they will provide a reliable source of supply in accordance with paragraph 71 of the NPPF?
- Q39. Policy SS1 criterion c. states the Council will seek to increase the rate of delivery from small sites. How will this be achieved and how has this policy been assessed in the Council's assumptions on housing delivery?
- Q40. What lead-in times and build-out rates have been applied to sites, both with and without planning permission? Have different approaches been adopted for sites with or without full planning permission? Are the assumptions used appropriate and justified?
- Q41. Will the plan be effective in helping to ensure that at least 10% of the housing requirement is met on sites no larger than one hectare, as required by paragraph 69 of the NPPF? If this is not possible, are there strong reasons why the 10% cannot be achieved?
- Q42. Should the Plan specify the level of unmet housing need and set out how the issue is expected to be addressed?
- Q43. Paragraph 74 of the NPPF expects strategic policies to include a trajectory illustrating the expected rate of housing delivery over the plan period and for plans to set out the expected rate of delivery for specific sites. The Council's response to my Initial Letter concludes that a separate trajectory set out in regular Annual Monitoring Reports would be preferable. How does this conclusion sit with paragraph 74? In responding to this question,

could the Council set out how it would modify the Plan as suggested in paragraph 10.8 of its response?

5-year housing land supply

- Q44. What is the most up to date 5-year housing land requirement?
- Q45. Appendix 7 of the HIS suggests the supply of deliverable housing land stands at 2068 dwellings. Are assumptions on deliverability appropriate, justified and consistent with national policy?
- Q46. Would the Council be able to demonstrate a 5-year supply of deliverable housing land on adoption of the Plan and a rolling 5-year supply throughout the Plan period? In responding, could the Council ensure the most up-to-date trajectory of the supply is provided?

Housing Mix & Policy DM1

- Q47. Paragraph 62 of the NPPF expects planning policies to reflect the assessed housing needs for different groups in the community. Is the WLP positively prepared, justified and effective in reflecting the needs of different groups in terms of size, type and tenure of housing?
- Q48. In particular, paragraph 5.15 of the WLP states that Worthing has a need for 1,601 additional market and affordable homes to provide housing with support or housing with care and a maximum of 435 additional care bed spaces. Is the Plan effective in meeting these needs?
- Q49. Is it clear to decision makers, developers and local communities what is expected in relation to criterion a) of Policy DM1 and how considering the most up-to-date evidence of housing need and demands would affect proposals? Is suggested modification M26 necessary to ensure effectiveness?
- Q50. Paragraph 5.8 suggests that priority should be given to family homes with 3 or more bedrooms. Is this justified and, if so, will the Plan be effective in achieving this requirement?
- Q51. Is the policy flexible enough to allow for circumstances where it may not be possible to provide a certain size or type of dwelling, due to site constraints for example?
- Q52. Has the Council identified a need for self-build and custom housebuilding? If so, is the Plan positively prepared in meeting this need?

- Q53. Is the requirement in Policy DM1 all new homes to meet Building Regulation standard M4(2) justified by adequate, proportionate and up to date evidence about need, viability and site-specific factors such as vulnerability to flooding, site topography, and other circumstances?
- Q54. Paragraphs 5.24 and 5.25 raise the issue of live/work units, including highlighting preferences for how these would be delivered and stipulating that they would be subject to the requirements of other policies. However, Policy DM1 makes no specific mention of live/work units. To be effective, should Policy DM1 include provisions relating to live/work units? In addition, is it justified to expect live/work units to meet the requirements of policies DM2 and DM3?
- Q55. On what basis is modification M25 necessary for soundness?

Gypsies, Travellers and Travelling Showpeople (Policy DM4)

- Q56. The Coastal West Sussex Gypsy and Traveller Accommodation Assessment (GTAA) [CD/I/14] concludes that there is no identified current or future need for pitch or plot provision. Is there any substantive evidence to suggest this is not a robust assessment of need?
- Q57. Is Policy DM4 positively prepared, justified, effective and consistent with national planning policy? In particular, is it consistent with Policy H of national Planning Policy for Traveller Sites (PPTS)(2015)?
- Q58. Is it clear what best guidance from other relevant bodies is being referred to in criterion b.?
- Q59. Is it clear what is meant by 'safeguarding' in criterion c.? If the intention is to resist other forms of development on permitted sites, then would the policy be effective in this regard?

Density and Policy DM2

- Q60. Is the minimum density of 35 dwellings per hectare for family housing justified and consistent with the considerations set out in criterion a.?
- Q61. Is the minimum density of 100 dwellings per hectare for mixed-use and flatted development justified and consistent with the considerations set out in criterion a.?
- Q62. Criterion c. states that this density should be achieved in 'most' mixed-use, flatted and town centre development. Is it clear to

decision makers, developers and local communities in what circumstances a lower density might be considered acceptable? To be effective, should the policy identify exceptions in the same way as criterion b.?

Q63. Is Policy DM2 sufficiently flexible to take account of individual site circumstances?

Q64. Footnote 49 of the NPPF states that policies may make use of the nationally described space standards (NDSS) where the need for an internal space standard can be justified? The HIS sets out the justification for adopting the NDSS. Does this meet the requirements of footnote 49?

Affordable Housing and Policy DM3

Criterion a. of Policy DM3 establishes a variable rate of affordable housing provision for flatted development on previously developed land (PDL), other types of housing on PDL and housing on greenfield sites.

Q65. Are these requirements justified by proportionate and up-to-date evidence about need and viability?

Q66. Approximately how many affordable homes is the WLP expected to deliver across the plan period? How does this compare to the identified need for affordable housing?

Q67. In addition, how does this compare to previous performance? How many affordable homes have been provided as a percentage of total delivery in the past 5-10 years?

Q68. Is it sufficiently clear how criterion c. would be implemented and on what basis size and tenure split would be determined? Is the 75%/25% split between social/affordable rented housing and intermediate housing justified and consistent with national policy?

Footnote 49 of the NPPF states that policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing where this would address an identified need for such properties.

Q69. Is the potential requirement for affordable housing to meet Building Regulation M4(3) justified by adequate, proportionate and up to date evidence about need, viability and site-specific factors such as vulnerability to flooding, site topography, and other circumstances²?

² PPG ID:63-009-20190626 and PPG ID:56-007-20150327 and 56-008-20160519

Q70. Is it sufficiently clear how criterion d. would be implemented and on what basis the provision of affordable homes constructed to Building Regulation M4(3) would be determined?

Matter 4 – Employment Requirements

Issue 1 – Has the WLP been positively prepared and is it justified, effect and consistent with national policy in relation to its provision for employment and business needs?

Employment Land Need and Requirement

In terms of employment land/floorspace needs, the Employment Land Review Focussed Update (2020) [CG/J/2] considered four scenarios, with results ranging from a current oversupply of 49,540 sqm of floorspace (- 11.3 ha) to a need for 61,560 sqm of floorspace (14.7 ha). The Council has sought to adopt the 'Baseline Labour Demand' scenario which equates to a need of 32,560 sqm of floorspace (6.8 ha). The response to the Initial Letter concludes that the Labour Demand Scenario is the only reasonable alternative.

Policy SS2 establishes a minimum employment floorspace requirement of 28,000 sqm. Suggested modification M4 seeks to reduce this to 24,000 sqm. Is the plan positively prepared in relation to the employment land need identified?

Q71. Is the plan based on adequate and proportionate evidence about the need for employment land? Is adopting the 'Labour Demand Scenario' justified in light of the alternatives considered?

Q72. Is the plan positively prepared in relation to the scale of new employment floorspace proposed, both in terms of the type and overall amount of floorspace proposed?

Q73. What is the justification for reducing the employment land requirement as suggested modification M4? Is this necessary for soundness and what effect would it have on meeting the employment land need for the Borough?

Economic Growth and Skills (Policy DM10)

Q74. Is it sufficiently clear to decision makers, developers and local communities in what circumstances the Council will seek to enter into legal agreements relating to local employment, skills and training? Would such agreements be compliant with relevant legal requirements and national policy?

Q75. In what circumstances would the use of legal agreements and conditions be justified, as set out in criterion K? Would these be consistent with the requirements of national policy?

Protecting and Enhancing Employment Sites (Policy DM11)

Q76. What is the justification for protecting existing premises, sites used, or last used, for employment purposes to be 'generally' protected for employment use under criterion a.? In this regard, is criterion a. consistent with criteria c. and d. which set out circumstances in which alternative uses will be acceptable?

Q77. Is it clear to decision makers, developers and local communities what might constitute exceptional circumstances in the context of criterion b.? What is the role of the Sustainable Economy Supplementary Planning Document and to be effective should the criteria for establishing an exceptional circumstance be set out in policy?

Q78. Policy DM11 appears to address the 'protection' of employment land only. Is it clear to decision makers, developers and local communities under what circumstances permission would be granted for *new* employment development, both within and outside the sites listed under criterion b.? Is the Plan effective in this regard?

Q79. How have the sites listed under Policy DM11 criterion b. been identified? What factors were considered in determining their inclusion in the policy?

Q80. Are criteria c. and d. justified and consistent with national policy, particularly paragraph 82 which, states that planning policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices and to enable a rapid response to changes in economic circumstances?

Q81. In situations where allocated employment sites are implemented, under which criteria would applications for alternative uses be considered? Would this provide a justified, consistent and effective approach for the dealing with such applications?

Q82. Are suggested amendments to the policies map M44-M46 necessary to ensure the policy is justified and effective?

The Visitor Economy (Policy DM12)

Q83. Does Policy DM12 defer important policy matters relating to the loss of visitor facilities to the Sustainable Economy SPD? Having regard to Regulations 5 and 6 of the Town and Country Planning

(Local Planning) (England) Regulations 2012 should these matters be included in the Local Plan?

- Q84. Further to the above, do criteria i.-vi. constitute the full range of considerations? If not, is it sufficiently clear what the Council will have regard to? Moreover, are the criteria themselves clear and unambiguous? For example, what constitutes a 'reasonable period of time' in relation to criterion i.?
- Q85. How are the Council's expectations with regard to the evening economy reconciled with the approach to drinking establishments set out in Policy DM13?

Matter 5 – Site Allocations

Issue: Whether the proposed site allocations are justified taking into account the reasonable alternatives, positively prepared in meeting the area's development needs, effective in terms of deliverability over the plan period and consistent with national policy in enabling sustainable development?

Site Selection Methodology

- Q86. Is the approach to the assessment and selection of sites, as summarised in the Council's response to my Initial Letter, justified? Does the submitted evidence demonstrate that the sites have been selected based on a robust, consistent and objective basis? Are the reasons for selecting some sites and rejecting others clearly set out and justified?

General Site Matters

The following questions are relevant to all sites. However, there is no need for the Council or respondents to address each 'general' question if not considered necessary or relevant. However, if the Council wishes to address these matters raised more generally then that would be helpful. The questions below will however provide an indication of the types of issues likely to be discussed in the site-specific hearings.

- Q87. Is the amount of development proposed for each site justified having regard to any constraints and the provision of necessary infrastructure? In this regard, are the suggested modifications under M4(a) justified and necessary for soundness?
- Q88. Does the plan provide sufficient detail on form, scale, access and quantity of development for each site?
- Q89. Is there any substantive evidence to suggest the site should not be allocated based on one or more of the following factors?:

- biodiversity, in particular but not restricted to protected habitats and species;
- green infrastructure or agricultural land;
- landscape quality and character;
- heritage assets;
- strategic and local infrastructure including transport;
- the efficient operation of the transport network and/or highway safety.
- contamination, air and water quality, noise pollution, odours, land stability, groundwater and flood risk;
- open space, recreational facilities and public rights of way;
- viability and delivery.

Q90. In relation to the above, do the site-specific policies contain effective safeguards or mitigation measures necessary to achieve an acceptable form of development? Are the site specific policies effective?

Q91. What infrastructure is critical to the delivery of each site? Where contributions are specified, are they necessary and justified by the evidence base? Is the plan sufficiently clear on how and when infrastructure provision will be required?

Additional Site Specific Questions

Site A1 – Beeches Avenue

Q92. Criterion a. requires a safe and suitable access from Lyons Farm that does not compromise or negatively impact on the operations of the football club. What evidence is there that this is achievable?

Q93. The supporting text refers to the car repairer needing to be relocated. However, criterion g. only requires *consideration* to be given to the suitable relocation of the business. Is the relocation of the car repairer necessary to deliver the site? What evidence is there that this is achievable? In addition, is it clear to a decision maker how they should react to a planning application in this regard?

Q94. What is the justification for suggested modification M10 and is it necessary for soundness?

Site A2 – Caravan Club, Titnore Way

- Q95. Is it clear how criterion g. would be satisfied? For effectiveness, should the Plan be clearer about what the Council expects from development in this regard?
- Q96. Is it clear how criterion i. would be satisfied? What are the implications of potential development for the composting site and/or for future residents? For effectiveness, should the Plan be clearer about what the Council expects from development in this regard?
- Q97. What is the justification for suggested modifications M11 and M11(a) and are they necessary for soundness?

Site A3 – Centenary House

- Q98. The 'indicative capacity' suggests 10,000 sqm of 'employment' floorspace. Is it clear what is expected in this regard? Are all forms of 'employment land' likely to be acceptable? Should the plan be specific about the nature of development proposed?
- Q99. The supporting text suggests that the site is considered to be at high risk of groundwater flooding. Notwithstanding site selection issues raised elsewhere, is the Plan effective in ensuring any potential risks can be adequately mitigated?
- Q100. The supporting text highlights the potential for recorded archaeological remains. Is this likely to affect the scale or timing of development? Is the Plan effective in ensuring development does not result in unacceptable impacts on any remains?
- Q101. Criterion c. requires development to improve the operational capacity and safety of Durrington Lane and associated site access. Is there sufficient evidence to suggest this is achievable without impacting on the viability or deliverability of the site?
- Q102. What is the justification for suggested modification M11(b) and is it necessary for soundness?

Site A4 – Civic Centre, Stoke Abbott Road

- Q103. The supporting text indicates the site is considered to be major vulnerability to groundwater flooding. Notwithstanding site selection issues raised elsewhere, is the Plan effective in ensuring any potential risks can be adequately mitigated?
- Q104. Is the Plan effective with regard to risk of contamination on the site? Is this likely to impede delivery?

Q105. Is it clear to decision makers and developers what constitutes 'sufficient' parking and amenity space in the context of this site and type of development proposed?

Site A5 – Decoy Farm

Q106. Given the constraints identified in relation to contaminated land, flood risk and neighbouring or nearby uses, is the scale and nature of development justified and deliverable? Is the Plan effective in ensuring risks associated with these issues can be adequately mitigated?

Q107. Criterion g. suggests a need for consultation with the Highway Authority to agree any mitigation for off-site impacts on the local and strategic road networks. Is there any substantive evidence to suggest the transport impacts from development cannot be viably mitigated?

Q108. What is the justification for suggested modifications M12 – M15 and are they necessary for soundness?

Site A6 – Fulbeck Avenue

Q109. Has full consideration been given to the impact of development on the Local Wildlife site?

Q110. Is it clear to decision makers and developers how criterion i) would be satisfied? What are the implications of potential development for the composting site and/or for future residents? For effectiveness, should the Plan be clearer about what the Council expects from development in this regard?

Q111. What is the justification for suggested modification M16 and is it necessary for soundness?

Site A7 – Grafton

Q112. Neither the supporting text or development requirements are explicit about the anticipated split of retail and leisure floorspace to be delivered. In this context, is it sufficiently clear to decision makers and developers what is expected from the development?

Q113. What is the relevance of the reference to the 430 parking spaces in the supporting text/list of constraints? Would development lead to any unacceptable loss of parking provision for the town centre?

Q114. What is the justification for suggested modification M17 and is it necessary for soundness?

Site A8 – HMRC Offices

Q115. Policy SS2 refers to delivery of 250 dwellings with care home/sheltered accommodation. The indicative capacity figures given on page 86 suggest a similar mix. However, the development requirements refer to a mix of residential and employment uses. Does this relate only to the retention of Durrington Bridge House, or is the expectation of additional employment development as part of the mix?

A9 – Lyndhurst Road

Q116. Has full consideration been given to the suitability and delivery of the site, with particular regard to contamination, heritage and biodiversity impacts?

Q117. Has full consideration been given to the impact of development on the highway network and parking provision?

Q118. What is the justification for suggested modification M18 and is it necessary for soundness?

A10 – Martlets Way

Q119. What are the constraints to residential development taking place? Given the reference to such development 'facilitating' the delivery of employment floorspace and the former gasholder, is it anticipated that residential development will be necessary to ensure viability of the employment uses? In addition, would residential development be likely to prejudice the delivery of the 10,000 sqm of employment space?

Q120. Is it clear to decision makers, developers and local communities what might be expected in terms of residential development were it to be proposed?

A11 – Stagecoach, Marine Parade

Q121. The supporting text refers to the Council working with the site owners to find a suitable alternative site. To what extent will this affect the delivery of the site?

Q122. What is the justification for suggested modifications M19 and M19(a) and are they necessary for soundness?

Site A12 - Teville Gate

Q123. Is it sufficiently clear to decision makers what the Council's expectations are in relation to the scale, nature and split of

commercial floorspace delivered on this site? To ensure clarity and effectiveness, should the Plan be specific about the type of retail envisaged?

Q124. Is the allocation of the site for retail consistent with paragraph 86 of the NPPF, in particular criteria d. and e. which set out the circumstances in which allocations for main town centre uses should be made? Is retail development justified in terms of the needs identified and impact on existing centres?

Q125. Notwithstanding suggested modification M4(a), would hotel development be acceptable and should the plan make reference to this?

Q126. What is the justification for suggested modification M20 and is it necessary for soundness?

Site A13 – Titnore Lane

Q127. Will the provisions set out in the development requirements be effective in ensuring development would not have an unacceptable impact on Ancient Woodland, the Local Wildlife Site and the setting of the South Downs National Park?

Q128. What is the justification for suggested modifications M22 and M24 and are they necessary for soundness?

Site A14 – Union Place

Q129. Will the provisions set out in the development requirements be effective in ensuring development would not have an unacceptable impact on nearby heritage assets?

Q130. What is the justification for suggested modification M24(a) and is it necessary for soundness?

Site A15 - Upper Brighton Road

Q131. Will the provisions set out in the development requirements be effective in ensuring development would not have an unacceptable impact on the setting of the South Downs National Park, nearby heritage assets?

Q132. Has full consideration been given to the impact of development on the highway network?

Q133. Is it clear to decision makers, developers and local communities when and how the playing field for Bramber First School is to be provided?

Matter 6 – Retail, Leisure and Town Centres

Issue: Has the WLP been positively prepared and is it justified, effective and consistent with national policy in respect of its strategy and policies for retail and other town centre development?

Retail Need and Supply (Policy SS2)

The Council's Town Centre and Retail Study [CD/K/1] concludes that there is a need to 2026 for up to 9,200 sqm of comparison retail floorspace and 1,250 sqm of convenience retail floorspace. Policy SS2 establishes a requirement of 10,000 sqm of retail and leisure floorspace.

Q134. Is the plan based on adequate and proportionate evidence about the need for retail and leisure floorspace?

Q135. Is the plan consistent with paragraph 86d of the NPPF which states that a range of sites should be allocated to meet the scale and type of development likely to be needed, looking at least 10 years ahead?

Q136. Is the plan positively prepared in relation to the scale of new retail and leisure floorspace proposed? In this regard, what is the justification for suggested modifications M4 and M4(a) as they pertain to retail and leisure floorspace?

Q137. To be effective, should the Plan reflect the split of comparison and convenience retail floorspace as set out in paragraph 3.24?

Q138. Are the allocations which include main town centre uses consistent with national policy and the Town Centre Strategy, set out in policies SS3 and DM13?

Town Centre Strategy (Policy SS3)

Q139. What is the purpose of Policy SS3 and is it clear to decision makers, developers and local communities how it should be used to react to development proposals?

Q140. What is the justification for suggested modifications M5 and M6 and are they necessary for soundness?

Retail and Town Centre Uses (Policy DM13)

Q141. Is the retail hierarchy justified and appropriate? Does it adequately reflect the size, role and function of the settlements and the level of existing provision? For effectiveness, should the centres which make up the hierarchy be set out in policy?

- Q142. How have the primary shopping areas and frontages been determined? Are they justified? Is the extent of the PSA on the Policies Map clear, both in terms of the policy and Policies Map?
- Q143. Is the policy and approach for each tier of the hierarchy consistent with paragraph 86 of the NPPF, in particular:
- i. criterion a. which expects policies to allow centres to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, and
 - ii. criterion f. which recognises that residential development often plays an important role in ensuring the vitality of centres.
- Q144. Paragraph 5.183 suggests that 65% of the Primary Shopping Frontage should be retained in retail use. For effectiveness should this figure be set out in the policy (as the 50% figure is set out for District and Medium Scale Local Centres)? Are these figures justified?
- Q145. Under criterion d. iii) is it clear to decision makers what would constitute an over-concentration of takeaways?
- Q146. Is it clear to decision makers and developers in what circumstances the conditions referred to in criterion h. would be imposed and what they would restrict?
- Q147. What is the justification for the threshold of 500 sqm for the requirement for impact assessments?
- Q148. Should the policy be modified to take account of the revocation of the A4 and A5 Use Class?

Matter 7 – Transport and Accessibility

Issue: Is the WLP's approach to transport and accessibility justified, prepared, effective and consistent with national policy?

Policy DM15

- Q149. Is the policy effective, justified and consistent with national policy in respect of transport and access in new developments?
- Q150. In its response to my initial letter, the Council acknowledge that criterion a. iv) is not sound in relation to parking standards and the reference to West Sussex County Councils' guidance. On this basis, is suggested modification DM32(a) necessary to ensure soundness?

Q151. What is the justification for suggested modification M32(b) and is it necessary to make the plan sound?

Matter 8 – Infrastructure and Implementation

Issue: Are policies relating to infrastructure provision, including community facilities, justified, positively prepared, effective and consistent with national policy?

Planning for Sustainable Communities / Community Facilities (Policy DM8)

Q152. Is it sufficiently clear to decision makers, developers and local communities in what circumstances the Council will seek new or improved community facilities under criterion d.?

Q153. Is it sufficiently clear whether one or both of the exceptions set out in criterion e. need to be met to satisfy the policy?

Delivering Infrastructure (Policy DM9)

Q154. Does Policy DM9 satisfy paragraph 34 of the NPPF, which states that plans should set out the contributions that are expected from development, including infrastructure for, amongst other things, education, health and transport?

Q155. Is the policy sufficiently flexible to address changing circumstances? In this regard, paragraph 5.123 sets out detailed guidance on how the Council will consider the issue of viability. For effectiveness, should this be set out in policy?

Q156. In terms of criterion c., is it justified or necessary to expect all infrastructure to be provided prior to development becoming operational or being occupied? Is such an approach likely to affect delivery?

Digital Infrastructure (Policy DM14)

Q157. Is it clear how applicants will meet the expectation to 'actively' demonstrate that they have considered broadband and mobile connectivity? Is this requirement justified and is it clear to decision makers how they should react to proposals in this regard?

Q158. Are criteria b., c. and d. justified in requiring all new residential development to enable Fibre-to-the-Premises (FTTP) at first occupation, meeting or exceeding Building Regulations relating to the provision of FTTP infrastructure or providing alternative technological options? Is it justified for the policy to be addressing matters covered by Building Regulations?

Q159. In terms of criterion e. how would the Council expect residential and employment development to address matters of mobile telecommunications coverage? Is it clear to decision makers what the outcome should be if sufficient coverage is not able to be provided? Is the policy effective in this regard?

Q160. The requirements for prior approval applications are set out in the General Permitted Development Order 2015 (as amended). On that basis, should reference to prior approvals be removed from criterion g.?

Matter 9 – Built Environment

Issue: Are the policies relating to the built environment, including heritage assets, justified, positively prepared, effective and consistent with national policy?

Quality of the Built Environment (Policy DM5)

Q161. Is Policy DM5 positively prepared, justified, effective and consistent with national planning policy, in particular paragraph 130 of the Framework which sets out requirements for planning policies relating to design?

Q162. Is criterion iv. consistent with national policy on heritage assets? Is it justified to expect all new development to enhance heritage assets and their settings?

Q163. Is it clear in what circumstances criterion c. would be implemented? If so, is such an approach justified and consistent with national policy, particularly paragraph 56 of the NPPF which sets out when conditions should be imposed?

Q164. What is the justification for suggested modifications M27, M28, M28(a) and M28(b) and are they necessary for soundness?

Public Realm (Policy DM6)

Q165. Is Policy DM6 positively prepared, justified, effective and consistent with national planning policy, in particular paragraphs 130 and 131 of the Framework which sets out the requirements for planning policies relating to design and the public realm?

Q166. Is it sufficiently clear to decision makers, developers and local communities when and how improvements to the public realm and public art would be required and what scale of provision is likely to be sought? Is the policy justified and will be effective in meeting the Council's stated objectives?

- Q167. Is the requirement for public art as part of all major development justified and based on adequate, proportionate and up-to-date evidence, particularly in relation to the effect on viability?
- Q168. Is the policy sufficiently flexible to take account of the individual characteristics of sites and their environs, the nature of development proposed and whether implementation of public realm and art improvements are necessary or feasible?
- Q169. What is the justification for suggested modification M29 and is it necessary for soundness?

Historic Environment (Policies DM23 and DM24)

- Q170. Does Policy DM23 satisfy the requirement set out in paragraph 190 of the NPPF for the plan to set out a positive strategy for the conservation and enjoyment of the historic environment?
- Q171. Is Policy DM24 justified, effective and consistent with national policy as set out in Section 16 of the NPPF? In particular:
- i. Criterion c. suggests 'Heritage Impact Assessments' are only necessary where development would lead to substantial harm to, or total loss of a designated heritage asset. Is this consistent with national policy? Should the policy be modified to make it clear the impact assessments would be required wherever there may be potential for harm to designated or undesignated heritage assets? Is the policy clear how the Council would make use of any statements submitted?
 - ii. Is the policy consistent with the NPPF, in particular paragraphs 200 and 201, with regard to the circumstances in which development that results in harm to heritage assets may be permitted? In particular, does the policy reflect the concepts of 'less than substantial' and 'substantial' harm?
 - iii. Is the policy consistent the NPPF, in particular paragraph 203, with regard to how proposals affecting non-designated heritage assets should be considered?
 - iv. Is criterion i. sufficiently clear and effective in terms of how important views will be identified and how decision makers will assess the impact of development on views?

Matter 10 – Climate Change, Flood Risk and Pollution

Issue: Are the policies relating to climate change, flood risk and pollution justified, positively prepared, effective and consistent with national policy?

Sustainable Design (Policy DM16)

- Q172. Is the policy consistent with the Government's current policy on energy performance set out in the Written Ministerial Statement of March 2015?³ In particular, what is the justification for requiring the levels of energy efficiency set out in criterion b.?
- Q173. What is the justification for suggested modification M33 and is it necessary to make the Plan sound?
- Q174. Is the policy sufficiently flexible to take the characteristics of individual proposals into account, including the location of a site, its surroundings, the type of development proposed and viability?

Energy (Policy DM17)

- Q175. Is the requirement within criterion a. for all new housing and major non-residential development to provide at least 10% of their energy needs from renewable or low carbon sources justified and consistent with national policy?
- Q176. What is the justification for suggested modification M34 and is it necessary to make the Plan sound?
- Q177. What is the justification for requiring major development to connect to district heating networks under criterion c.? Is it clear to decision makers how they should react to development which does not propose to connect to such networks?
- Q178. Has the effect on viability from the requirements of Policy DM17 been assessed?
- Q179. Are the use of conditions set out in paragraph 5.252 consistent with the requirements of national policy? If so, should this be set out in the policy?

³ Energy performance standard equivalent to former CSH Level 4

Flood Risk and Sustainable Drainage (Policy DM20)

Q180. Is Policy DM20 effective and consistent with national policy in relation to flood risk? Is suggested modification M39(a) necessary to ensure soundness in this respect?

Q181. Further to the above, for the policy to be effective and consistent with national policy should there be specific reference to the exception test and when this will be necessary?

Q182. Having regard to the PPG⁴, is the policy sufficiently flexible to accommodate situations where Sustainable Drainage Systems will not be appropriate? Is suggested modification M39 necessary to ensure soundness in this respect?

Water Quality and Sustainable Water Use (Policy DM21)

Q183. The PPG⁵ states that Councils can apply the optional requirement of 110 litres/person/day where there is a clear local need. In this context, what is the justification for all new homes to comply this requirement? Moreover, what is the justification for expecting development to meet the 100 litres/person/day? Is this consistent with current national policy?

Q184. Is criterion b. justified and effective? Is it clear to decision makers how they should react to development proposals?

Pollution (Policy DM22)

Q185. Is Policy DM22 consistent with paragraph 181 of the NPPF with regard to development within Air Quality Management Areas (AQMA)? For effectiveness should the policy be explicit about requirements in relation to the identified AQMA?

Q186. What is the justification for suggested modification M42 and is it necessary to make the Plan sound?

⁴ Paragraph 7-082-20150323

⁵ Paragraph 56-014-20150327

Matter 11 – Natural Environment, Green Infrastructure and Open Space

Issue: Are the policies relating to the natural environment, green infrastructure and open space provision justified, positively prepared, effective and consistent with national policy?

Open Space, Recreation and Leisure (Policy DM7)

- Q187. Is criterion a. justified in seeking open space from all residential proposals of 10 dwellings or more? Is this consistent with the evidence, including the Open Space, Recreation & Leisure Guidance Note (2021) [CD/S/3]? Is the policy, and associated standards, sufficiently flexible to take account of individual circumstances and requirements?
- Q188. What is the intended status and usage of the Open Space, Recreation & Leisure Guidance Note (2021) [CD/S/3]? To ensure effectiveness, are there any elements of this that should be set out in the Plan?
- Q189. Does the policy provide an effective mechanism for securing off-site provision in appropriate circumstances?
- Q190. On what basis is the requirement for a net gain of open space set out in criterion c. iii) justified? Is this consistent with national policy, as set out in paragraph 99 of the NPPF?
- Q191. What is the justification for suggested modifications M30-M32 and are they necessary for soundness? Suggested modification M30 proposes to include reference to an Open Space Study from 2019. Given this document is not part of the Development Plan, would this be an effective means of addressing the Council's concerns? In addition, are the standards being referred to different to those set out in Table 1?

Biodiversity (Policy DM18)

- Q192. Is Policy DM18 consistent with national policy, particularly in respect of considering the effect of development on biodiversity assets and securing biodiversity net gains?
- Q193. Are the biodiversity net gain requirements set out in criterion h. justified? How will the Council 'encourage' developers to deliver 20% plus net gain on sites other than previously developed land? Is it clear how whether this is achievable will be assessed and what evidence will be required to be submitted?

Q194. What is the justification for suggested modifications M35 and M36 and are they necessary for soundness?

Green Infrastructure (Policy DM19)

Q195. Does Policy DM19 defer important policy matters relating to Green Infrastructure to as the yet unpublished Green Infrastructure Strategy? Having regard to Regulations 5 and 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 should these matters be included in the Local Plan?

Q196. Is Policy DM19 sufficiently flexible enough to allow for circumstances where it may not be possible to meet the requirements of the policy, in particular in relation to net loss and replacement of trees?

Q197. What is the justification for requiring sustainability statement and meeting the Building with Nature Award (Excellent) standards for major development?

Q198. What is the justification for suggested modifications M37 and M37(a) and are they necessary for soundness?

Steven Lee

INSPECTOR

20 September 2021