



Chichester Local Plan Review Advisory Visit Monday 12 July 2021

Introduction

The advisory visit was held on Monday 12 July. It was conducted using Microsoft Teams with myself and representatives from Chichester District Council. Inspector Mike Hayden was also in attendance.

I advised that I would not be involved with the Plan after this meeting, other than to prepare this note to send to the Council and MHCLG for their information. PINS will retain a copy of this note, and it is normal practice for it to be sent to the examining Inspector when they are appointed (although it is in no way binding on them). I also advised that I cannot determine at this stage whether the Plan would be found sound or legally compliant, as those are matters for the examining Inspector.

Background and Main Issue

The *Chichester Local Plan: Key Policies 2014-2029* was adopted in 2015. The Plan does not meet the full objectively assessed housing needs for the area. But it did recognise that future proposals to improve the capacity of the A27 and wastewater treatment works could facilitate additional housing growth. For this reason, it committed the Council to a review of the Plan within five years to ensure that housing needs could be met.

The Council is now in the process of preparing the Local Plan Review. However, expected proposals for improvements to the A27 have not progressed and capacity constraints still exist in relation to wastewater treatment. The main issue for the advisory visit was therefore how the Council could progress the Local Plan Review in the face of continuing infrastructure constraints. The Council's position, as expressed in their briefing note, set out two options; either progress with the Local Plan but without certainty over the deliverability of infrastructure, or, progress with a Local Plan which fails to meet the full housing needs of the area.

Highway Infrastructure – A27

In order to accommodate growth sufficient to meet the full objectively assessed housing needs for the area, a package of highway improvements would be required to the A27. Initial estimates suggest that the necessary mitigation measures are likely to cost at least £65m. In contrast, only around £33m-£45m is expected to be achievable from developer contributions without undermining viability, and thus the delivery, of housing. No other sources of funding have been identified as likely to come forward at this stage, or in the immediate future.

The Council advised that further work is due to be completed shortly which will identify the maximum amount of development that could be achievable without undermining viability. This will be a critical starting point and will allow the Council to quantify what level of housing growth is likely to be deliverable over the plan period. It should also seek to establish at what stage the necessary improvements will be required. For example, could a phased approach be pursued which would allow some development to come forward in the early stages of the Plan period? If not already done so, the Council should also seek to determine what impact the proposed growth in the Local Plan Review would have on the highway network. How would additional housing affect the safe and efficient operation of the network?

We discussed the importance of looking at alternative strategies to meet the full objectively assessed housing need. For example, Officers explained that the 'east-west' corridor was the most sustainable location for growth, but what about the north of the district? What evidence is there to substantiate conclusions that the area beyond the National Park is unable to accommodate additional housing growth as part of a more 'balanced' strategy? Similarly, what about alternative locations in the south of the district that would put less pressure on the A27? Has the Council exhausted all possible opportunities for meeting housing needs?

The provision of housing and constraints such as the A27 and the South Downs National Park are strategic, cross-boundary planning matters. As the Council will be aware, Section 33A of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to co-operate in maximising the effectiveness of plan preparation. In particular, it requires local planning authorities to engage constructively, actively and on an ongoing basis in the preparation of development plan documents so far as they relate to strategic matters.

Paragraphs 24-27 of the 2019 National Planning Policy Framework ('the Framework') are also relevant. In particular, paragraph 26 states that: *"Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a plan area could be met elsewhere".* (my emphasis)

The Duty to Cooperate and the requirements of the Framework (which is supplemented by the Planning Practice Guidance) are therefore critical in the preparation of the Local Plan Review. At the meeting, Officers advised that the Council has so far approached discussions with neighbouring authorities on the basis that the Local Plan Review will meet the full objectively assessed housing needs for the area. However, if this is not the case, then the examining Inspector will want to see evidence of constructive, active and on-going engagement to determine whether or not development needs could be met elsewhere.

As discussed at the meeting, a failure to meet the Duty to Cooperate cannot be remedied during the examination process because it applies to the preparation of the Plan, which ends upon submission. Paragraph 35 of the 2019 Framework is also clear that, in order to be effective, Plans should be based on effective joint working on matters that have been dealt with, rather than deferred.

Wastewater Infrastructure

The Council's Update Note explained that a Statement of Common Ground is in preparation with Southern Water and the Environment Agency. Despite several months of negotiation, the Statement has not been signed and the Council has identified concerns that this situation may continue, leading to a situation whereby Southern Water objects to the level of growth proposed, especially to the west of the district.

However, at the meeting the Council explained that following further dialogue, the position regarding wastewater treatment capacity was not expected to be a 'showstopper', and that agreement could be possible on mitigation options and infrastructure improvements. We therefore discussed the importance of continuing dialogue, seeking to narrow down the issues and identify possible solutions. One such solution discussed was the possibility of phasing, both in terms of overall numbers, and geographically to match development with existing and planned capacity.

However, even where phasing is pursued, paragraph 20 of the Framework states that strategic policies should set out the overall strategy and make sufficient provision for infrastructure, which amongst other things includes wastewater. Some level of detail will therefore be required to demonstrate how capacity can be improved. In order to be effective, paragraph 35 of the Framework is clear that it expects cross-boundary strategic matters to have been dealt with rather than deferred.

We also discussed the importance of the Duty to Cooperate, with the Environment Agency a prescribed body. Continued dialogue was therefore advised in order to narrow down the issues. This may lead to a Statement of Common Ground which sets out the areas of agreement, and disagreement. However, in order to demonstrate that engagement with prescribed bodies has been effective, the appointed Inspector would be looking for examples of policy outcomes, including how the engagement has shaped the strategy, and not just deferred issues.

Conclusion

The advisory visit and this note have been based on an initial and light touch assessment of the documents referred to by the Council, with a particular focus on the main issues of highways and wastewater infrastructure.

In summary, I explained that at this stage it was not possible to endorse a strategy that failed to meet the full objectively assessed housing needs for the area. Matters of soundness and legal compliance would be for the examining Inspector to determine with the benefit of all the supporting information and representations.

However, before reaching a conclusion that housing needs cannot be met, we did discuss the importance of seeking to determine:

- what level of housing could be achieved based on the required improvements to the A27 without undermining viability, and thus deliverability;
- whether the housing needs could be met in another way, which includes taking a step back and reassessing the spatial strategy and distribution of development in other parts of the district; and
- if not, then whether housing needs could be met elsewhere through constructive, active and on-going engagement as part of the Duty to Cooperate.

The PPG provides useful advice on the need to reach agreement on strategic matters and what local planning authorities should do if they are unable to secure agreement (Paragraph: 022 Reference ID: 61-022-20190315). It states that strategic policy-making authorities should explore all available options for addressing strategic matters within their own planning area, unless they can demonstrate that to do so would contradict policies set out in the Framework. If they are unable to do so, local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before submitting plans for examination.

The PPG also advises that Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates, or are not relying on the Inspector to direct them. Where a strategic policy-making authority claims it has reasonably done all that it can to deal with matters but has been unable to secure the cooperation necessary, for example if another authority will not cooperate, or agreements cannot be reached, this should not prevent the authority from submitting a plan for examination. However, the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate, and any outcomes achieved. This will be thoroughly tested at examination.

I trust that the summary of main issues discussed at the meeting is useful. Should the Council require any further advice as preparation of the Plan progresses, please contact the Local Plans team.

Matthew Birkinshaw

Inspector
15 July 2021