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17<sup>th</sup> March 2023

Dear Sir/Madam

**Re: Chichester Local Plan 2021-2039: Proposed Submission (Regs 19)**

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Thank you for consulting the Royal Society for the Protection of Birds (RSPB) on the above document. We have received the Chichester Local Plan 2021-2039: Proposed Submission (Regulation 19) ("the Local Plan") document and would like to provide the following comments of the 'soundness' of the Local Plan.

The Chichester District area lies within the Eastern Solent and Arun Valley, a Focus Area of work for the RSPB. This is one of our highest priority places in the UK for the promotion of conservation at a landscape-scale, adopting the principles advocated by the Lawton report *Making Space for Nature* (2010)<sup>1</sup>, which recommended (in simple terms) more, bigger, better and more joined up protected areas.

A substantial part of the Council's area boundary is subject to a wide range of statutory nature conservation designations. This includes (but not limited to) the Arun Valley Special Protection Area (SPA), Chichester and Langstone Harbours SPA, Pagham Harbour SPA, Medmerry Compensatory Habitat, and Solent and Dorset Coast SPA; Arun Valley Special Area of Conservation (SAC) and Solent Maritime SAC; and a number of Sites of Special Scientific Interest (SSSIs). The RSPB regards the protection and enhancement of the SPAs, SACs, and their

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<sup>1</sup> Lawton, J.H., Brotherton, P.N.M., Brown, V.K., Elphick, C., Fitter, A.H., Forshaw, J., Haddow, R.W., Hilborne, S., Leafe, R.N., Mace, G.M., Southgate, M.P., Sutherland, W.J., Tew, T.E., Varley, J., & Wynne, G.R. (2010) *Making Space for Nature: a review of England's wildlife sites and ecological network*. Report to Defra.

associated and surrounding SSSIs as being among the highest priorities for our work nationally.

### **Chapter 3: Spatial Strategy**

Para 3.5 (p.33-34) outlines the range of factors informing the Local Plan's Spatial strategy, including:

*'Environmental constraints – taking a sequential approach to avoiding flood risk areas, protecting environmental designation, landscape quality, the historic environment and settlement character'*

The RSPB would like to see more positive and strengthened policy within the Spatial Strategy in relation to the environment rather than solely constraints. This should include the opportunity to restore, enhance, or create priority biodiversity areas and contribute to the delivery of the upcoming Local Nature Recovery Strategy which will be a mandatory requirement of CDC during the timeline of this Local Plan.

The RSPB supports other policies within the Local Plan which address the above need for landscape recovery and connectivity, such as Policy NE4 (Strategic Wildlife Corridors) which has the potential to provide a focus for habitat connectivity and enhancement across the district.

### **Chapter 4: Climate Change and Natural Environment**

#### **Policy NE4 – Strategic Wildlife Corridors**

The RSPB is pleased to see and supports the overall principles of Strategic Wildlife Corridors (SWCs) within Chichester Local Plan and the SWCs

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Background Paper. The principles of allowing *'the movement of species between areas of habitat by linking wildlife sites and reducing the risk of small, isolated populations becoming unsustainable and dying out'* (para 4.14, p.49) align with the Lawton principles of *'More, Bigger, Better, and Joined Up'* that underpin conservation practice and nature recovery in the UK. The overall policy to create SWCs within Chichester District Council's (CDC's) Draft Local Plan is consistent with national policy, specifically para 179(a), where plans should:

*'Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; **wildlife corridors and stepping stones that connect them**; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation'*

However, the RSPB is concerned by the lack of information and consultation process where material changes have been made to the boundaries of the SWCs. The last opportunity for consultation upon proposals for the SWCs was between July and September 2021; without additional opportunity to comment, changes were made to the Pagham to Westhampnett SWC which in the current CDC Proposed Submission Local Plan 2021 to 2049 Policies Map have removed a western section of the woodland and scrub area to the west of Drayton Lane. This former section of SWC has since been replaced with the proposed Strategic Allocations and Policy A8, and a section of Policy A7.

It is the RSPB's understanding that the 2021 consultation on SWCs outlined a proposed (later approved) movement of the Pagham to Westhampnett SWC to the west, through the Drayton Pits area to the west of Drayton Lane, in order to include important areas for barbastelle bats (*Barbastella barbastellus*) identified by survey efforts commissioned by CDC. With a lack of **justification** for these changes, the RSPB **does not** consider **Policy NE4** to be **'sound'**.

The RSPB is also unclear regarding the wording around development proposals being granted permission within SWCs where it can be demonstrated that *'there*

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are no sequentially preferable sites available outside the wildlife corridor'. It is unclear what the definition of a sequentially preferable site is; the RSPB considers it necessary for this requirement to be clarified before it is able to provide comment on its '**soundness**'.

Overall, the RSPB supports Policy NE4 and the concept of Strategic Wildlife Corridors but does not support the changes made to SWCs without consultation. The RSPB **does not** consider **Policy NE4** to be '**sound**' due to a lack of justification and evidence to inform modifications in the policy (NE4) and no form of consultation to provide opportunity to comment upon these changes. The RSPB seeks the reinstatement of the former boundary of the proposed Pagham to Westhamptnett SWC as detailed at the last opportunity for consultation (July to September 2021).

## **Policy NE5 – Biodiversity and Biodiversity Net Gain**

The RSPB **supports Policy NE5** in general regarding the clearly outlined list of sites requiring conservation, protection, enhancement, and restoration of biodiversity in the district.

However, the RSPB would like to see more ambitious targets for nature recovery through Biodiversity Net Gain. Advice to Defra from members of the Natural Capital Committee suggests that a level of net gain at or above 10% is necessary to give reasonable confidence in halting biodiversity losses. Therefore, 10% sits as an absolute minimum level of net gain for Defra to confidently expect to deliver genuine net gain, or at least no net loss, of biodiversity and thereby meet its policy objectives<sup>2</sup>. Defra's Biodiversity Net Gain Consultation

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<sup>2</sup> Defra (2018) *Biodiversity Net Gain Consultation Impact Assessment*. Page 19.  
[https://consult.defra.gov.uk/land-use/net-gain/supporting\\_documents/181121%20%20Biodiversity%20Net%20Gain%20Consultation%20IA%20FINAL%20for%20publication.pdf](https://consult.defra.gov.uk/land-use/net-gain/supporting_documents/181121%20%20Biodiversity%20Net%20Gain%20Consultation%20IA%20FINAL%20for%20publication.pdf)

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Impact Assessment also highlights examples of an increase in the required percentage of net gain: 'The Planning authority for Lichfield District requires a net gain of 20% on new development, and experience to date suggests that developers are able to meet this requirement and often achieve much greater levels of biodiversity net gain.' The RSPB would therefore like to see the implementation of policy around Biodiversity Net Gain with a suggested minimum of 20% within Chichester district and around the county of Sussex, in order to gain a greater level of certainty for genuine net gain as a result of Biodiversity Net Gain policy and to see tangible net gain benefits for key priority species and habitats in the Borough.

Kent Nature Partnership have also explored the option of promoting a 20% BNG target for the county with a Viability Assessment<sup>3</sup> commissioned by Kent County Council. Results of the assessment show that a shift from 10% to 15% or 20% BNG as a requirement will not materially affect viability in the majority of instances when delivered onsite or offsite. The biggest cost in most cases is to get to a mandatory, minimum 10% BNG. The increase to 15% or 20% BNG in most cases costs much less and is generally negligible. Because the BNG costs are low when compared to other policy costs, in no cases are they likely to be what renders development unviable.

Examples of its application can also be found in other counties in the South East, such as Surrey Nature Partnership. Further information on the recommendation for 20% Biodiversity Net Gain in Surrey's Local Authorities can be found on the Surrey Nature Partnership website<sup>4</sup>. In addition, various Local Planning Authorities are currently pursuing a 20% BNG requirement in Local Plans, such as Guildford and Mole Valley in Surrey, and Worthing in Sussex.

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<sup>3</sup> SQW (2022) *Viability Assessment of Biodiversity Net Gain in Kent*. <https://kentnature.org.uk/wp-content/uploads/2022/07/Viability-Assessment-of-Biodiversity-Net-Gain-in-Kent-June-2022.pdf>

<sup>4</sup> Surrey Nature Partnership (2020) *Recommendation for adoption of 20% minimum biodiversity net gain across Surrey's planning sector: a Surrey Nature Partnership Position Statement*. [https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey\\_snp-november2020\\_final.pdf](https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey_snp-november2020_final.pdf)

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## **Policy NE7 – Development and Disturbance of Birds in Chichester and Langstone Harbours, Pagham Harbour, Solent and Dorset Coast Special Protection Areas and Medmerry Compensatory Habitat**

The RSPB **supports** Policy NE7 and the protection of internationally important habitats from impacts through development. The RSPB considers that policy NE7 clearly defines the requirements for protection of SPAs in conjunction with the Conservation of Habitats and Species Regulations 2017 (as amended) and the steps for developers and planners to ensure impacts are fully avoided or mitigated for Chichester and Langstone Harbours SPA, Pagham Harbour SPA, and Medmerry Compensation Habitat.

## **Policy NE8 – Trees, Hedgerows and Woodlands**

The RSPB **supports** the range of criteria set out for development proposals within Policy NE8. In particular, the RSPB is pleased to see protection of ancient woodland and other irreplaceable woodland habitats alongside maximising opportunities for planting of new trees, woodlands, and hedgerows. Bullet point 10 (p. 63) also includes the need for preference of native species within planting plans, which will provide not only the stated '*long-term resilience to pests, diseases and climate change*', but in addition the provision of native trees able to host a wider range of species and greater biodiversity; increasing the availability of native species and the important habitats these native species provide is critical to tackling the climate and ecological emergency in unison.

## **Policy NE17 Water Neutrality**

The RSPB **supports** Policy NE17 and the implementation of the Water Neutrality Strategy and the associated mitigation requirements for water neutrality. The RSPB is supportive of the requirements to secure water efficient design in new

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development, which promotes water use reductions before looking towards the need to mitigate water use through offsetting schemes.

## **Policy NE19 – Nutrient Neutrality**

The RSPB is supportive of measures in place to address the increase in nutrient inputs to Chichester and Langstone Harbours Special Protection Area (SPA)/Ramsar and Chichester Harbour SSSI. The RSPB agrees that while nitrogen originating from new development is not the only source, it is critical to ensure that new potential sources of nitrogen inputs do not further increase the nitrogen loads in Chichester Harbour. Securement of a nutrient neutrality scheme should be completed alongside additional catchment management measures and water quality improvement schemes to restore favourable condition in these ecosystems to enable the designated species to thrive in healthy waters.

Although supportive of the overall measures in place to address nutrient neutrality, the RSPB considers Policy NE19 needs to include further information regarding the current state of play for nutrient mitigation schemes in the district. The RSPB considers that strategic mitigation plans should be adopted in each catchment to model the optimum mix of catchment and nature-based solutions (CNBS), engineered and hybrid solutions. Although mitigation plans should be developed and delivered by a catchment operator (likely a water company), these mitigation plans should work closely with Local Authorities and strategic planning for districts in order to address nutrient neutrality holistically across the district and wider catchment areas.

Further, in addition to mitigation plans and information regarding any upcoming nutrient mitigation schemes available in the district, guidance should be included in Policy NE19 to provide more detail to aid development in implementing adequate mitigation measures to address nutrient neutrality when proposed to be fulfilled by their own means.

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Without the above additional information regarding nutrient neutrality within the Local Plan document, the RSPB **does not consider** it possible to conclude that Policy NE19 is 'sound' as, in its current form, the policy does not show effective joint working on cross-boundary strategic matters surrounding nutrient neutrality.

## **Chapter 7: Employment and Economy**

### **Policy E3 – Addressing Horticultural Needs**

The RSPB is aware of plans to extend the southern boundary of Runcton Horticultural Development Area (HDA) by a total of approximately 30 hectares. A section of this extension will run across the entire width of the Pagham to Westhampnett SWC. The RSPB considers that this should be acknowledged within Policy E3 or E4 regarding Horticultural Needs and Development in order to align with Policy NE4 on SWCs.

### **Policy E4 – Horticultural Development**

The RSPB **supports** the inclusion of criteria 8-10 for HDAs due to the proximity of Pagham Harbour SPA to Sidlesham and Highleigh, and Almodington HDAs. It is critical that any proposed development for horticultural purposes successfully avoids and/or mitigates potential impacts on PHSPA, including recreational disturbance impacts and the potential for loss of functionally linked habitat to Pagham Harbour SPA.

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## **Chapter 10: Strategic and Area Based Policies**

### **Policy A8 – Land East of Chichester**

It is the RSPB's understanding, as referred to in our response to Policy NE4 (Strategic Wildlife Corridors), that the site allocation boundary of Policy A8 (Land East of Chichester) intersects the proposed original boundary of the Pagham Harbour to Westhampnett SWC from the July to September 2021 consultation on SWCs. Para 10.30 of the Local Plan states:

*'The site lies adjacent to the Pagham to Westhampnett Strategic Wildlife Corridor. As well as a range of wildlife interests the corridor **includes one of the few remaining parcels of woodland to the east of the city**, foraging areas and commuting routes for a variety of bat species **including the rare barbastelle bat**. The corridor encompasses former gravel workings which are now lakes, including one lying adjacent to the proposed allocation site, these lakes support a number of notable bird species including the **only known breeding site in the district for marsh harriers**.'*

The RSPB has **bolded** key points of the above text which highlight multiple examples of habitat and species of importance in this particular section of the SWC.

SWCs have been proposed within the district as *'important features that should be protected, enhanced and created, to protect and promote biodiversity and to prevent fragmentation and isolation of species and habitats'* (para 4.14, p.49). As one of the few remaining parcels of woodland to the east of the city, the RSPB considers it critical to protect and enhance this area of woodland within the original boundary of the Pagham Harbour to Westhampnett SWC which is now proposed within the strategic site in Policy A8. This is to ensure the continuation and enhancement of an *'essential function in allowing the movement of species, preventing isolation of populations and degradation of designated sites'* (para 4.15, p.49). The movement of species referred in the

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above text includes the Section 41 (NERC Act, 2006) species of barbastelle bat (*Barbastella barbastellus*) and Amber-listed (UK Birds of Conservation Concern) marsh harrier (*Circus aeruginosus*) for which this SWC supports as evidenced by both bat surveys commissioned by CDC and bird data provided by Sussex Biological Record Centre and Sussex Ornithological Society.

Further to the above definition of SWCs and their role in the Local Plan, the RSPB does not consider that policy A8 adequately reflects the requirements to protect woodland and trees as outlined in Policy NE8 (bullet point 3, p.63) where *'development proposals will be granted where it can be demonstrated that the follow criteria have been met'*:

*'3. Loss or damage of woodland and hedgerows that are priority habitats and nonprotected but valued trees, woodland, community orchards, and all hedgerows should be avoided, and if demonstrated as being unavoidable, appropriate mitigation measures provided'*

Point 8 in Policy A8 (p.232) states the site-specific requirement to:

*'Ensure that the design and layout avoids harm to SAC designated species, section 41 priority species, other protected species and the existing habitat features within, and in the vicinity of the site, that support these species.'*

The RSPB does not consider it possible to avoid harm to priority species and habitats (as identified above) in the current strategic site boundary for policy A8 due to the large area of important woodland habitat for birds and bats in the north eastern section of the site allocation boundary that would be lost as a result of development. The RSPB objects to this site allocation in its current form and does not consider Policy A8 to be **'sound'**. The RSPB proposes the removal of the boundary section of Policy A8 that includes the woodland/scrub habitat of the SWC identified in the July to September 2021 consultation. In addition, an appropriate buffer should be provided to safeguard this important habitat and the wider SWC from impacts as a result of development.

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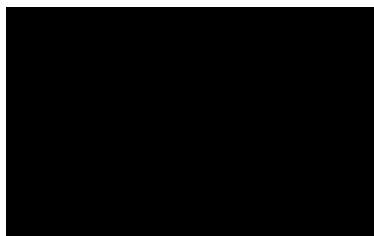
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We hope you find these comments useful. We would welcome the opportunity to discuss these comments with you in further detail.

Yours sincerely



**Jack Thompson**

**Conservation Officer**

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