



A27 Chichester Bypass Mitigation Supplementary Planning Document - Consultation


Representations on behalf of: Metis Homes Limited

Local Planning Authority: Chichester District Council

November 2023

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Contents

1. Instructions & Introduction.....	1
i. Instruction	1
ii. Introduction	2
2. Representations	2
i. Procedural Issues	2
ii. Technical Issues	3

1. Instructions & Introduction

i. Instruction

- 1.1 Nova Planning Limited has been instructed by Metis Homes Limited (hereafter referred to as 'Metis') to prepare and submit representations on Chichester District Council's 'A27 Chichester Bypass Mitigation' Supplementary Planning Document (SPD).
- 1.2 The Metis land is shown at Figure 1 below and comprises two adjoining parcels - an eastern parcel (shown edged red) known as 'Harris Scrapyard & Oaks Farm' (HSOF) and a western parcel (shown edged blue) known as 'Land East of Inlands Road' (LEOIR).

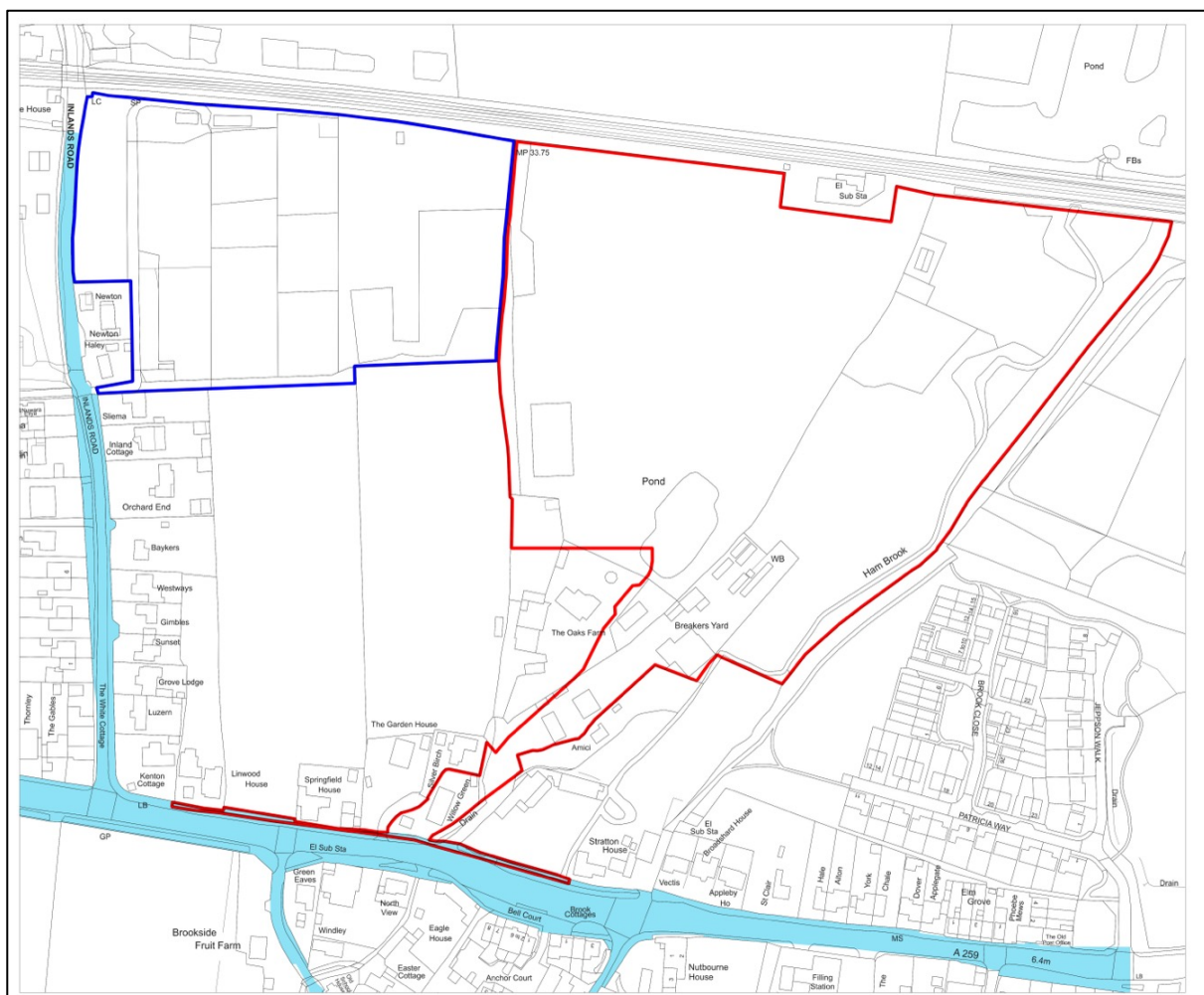


Figure 1: Site Location Plan

ii. Introduction

- 1.3 The Metis land is identified in the Southbourne Broad Location for Development (BLD) under Policy A13 and within the proposed Strategic Wildlife Corridor under Policy NE5.
- 1.4 The land edged red in Figure 1, known as ‘Harris Scrapyard & Oaks Farm’ has planning permission for 103no. dwellings and a Children’s Nursery (granted at appeal under Ref. APP/L3815/W/23/3318548).
- 1.5 The land edged blue in Figure 1, known as ‘Land East of Inlands Road’, is sustainably located and represents a suitable location for development. It is physically well related to the existing pattern of development to the north of the A259, located directly between the recently built out housing allocation at Priors Orchard and the recently approved development at HSOF.
- 1.6 The site is visually well contained by a thick band of mature trees on the eastern and southern boundaries, and the railway line to the north, which provides a clear physical barrier to the remainder of the land within the wider BLD.
- 1.7 The Highway Authority (West Sussex County Council) have confirmed through a pre-application enquiry that the site is a sustainable/accessible location for development; and that a proposed access to Inlands Road is capable of accommodating circa 100 dwellings. The site is unconstrained in all other respects.

2. Representations

i. Procedural Issues

- 2.1 Whilst we understand the context for the planned mitigation and the associated increase in costs, as set out in the draft SPD, fundamentally, the Council should not be seeking to introduce new financial contributions outside of the Local Plan process. This approach directly conflicts with the Government’s Planning Practice Guidance (PPG), and in particular Paragraph: 004 Reference ID: 23b-004-20190901 as follows (my underlining for emphasis).

“Where should policy on seeking planning obligations be set out?”

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability. This evidence of need can be standardised or formulaic (for example regional cost multipliers for providing school places. See the guidance from the Department for Education on ‘Securing developer contributions for education’. However, plan makers should consider how needs and viability may differ between site typologies and may choose to set different policy requirements for different sites or types of development in their plans.

It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122. This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.

Planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development.

See related guidance: Viability and Plan-making

Paragraph: 004 Reference ID: 23b-004-20190901

Revision date: 01 09 2019 See previous version

2.2 This view has been endorsed in a recent appeal decision under Ref. APP/L3815/W/21/3280933, where the Inspector commented at paragraph 12 (my underlining for emphasis):

“12. The Planning Practice Guidance (the PPG) makes clear that policies for planning obligations should be set out in plans and examined in public. It additionally states that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. The approach advocated by the Council therefore directly conflicts with that set out in the PPG”.

2.3 A copy of the decision is attached at **Appendix 1**.

2.4 The obligations set out in the draft SPD are a direct consequence of the highways assessment work and viability testing that has been undertaken as part of the evidence base for the emerging Local Plan Review – this is made clear in the draft SPD. However, none of this evidence has been subject to examination. Until this evidence has been fully tested at examination, it is inappropriate to rely upon it for the purposes of setting new financial obligations. This is made clear in the PPG and the Inspector’s comments above.

ii. Technical Issues

2.5 Looking beyond the procedural issues highlighted above, there are also concerns regarding the highways evidence that underpins the draft SPD. These concerns were highlighted in the previous representation by Metis on the Local Plan Review (Regulation 19), and they have not been fully addressed by draft SPD.

2.6 The Council’s strategy for transport infrastructure is based primarily on the findings of the Stantec Transport Study (January 2023). Separate representations were provided by Paul Basham Associates (PBA) in relation to this evidence and its application in the draft Local Plan policies. **Section 4** of the PBA representations is equally relevant to the draft SPD, which is based on the same evidence. A copy of these representations is attached at **Appendix 2**. The following issues are particularly relevant in the context of the draft SPD.

- **Traffic modelling** – the Transport Study uses a base year of 2014, which pre-dates the COVID pandemic and the significant changes in work-travel patterns in subsequent years. This is likely to result in a significant over-estimation of traffic flows, which is acknowledged in the report itself;
- **Trip generation** – this has no regard to the varying sustainability/accessibility merits of locations within the district. This would have been acceptable for a generic ‘predict and provide’ approach but the mitigation strategy is based on a bespoke ‘monitor and manage’ approach. Once it became apparent that that the ‘predict and provide’ approach could not be viably mitigated, a new assessment should have been undertaken to look in more detail at the specific characteristics of traffic generation from various locations within the Southern Plan Area, and the interrelationship with specific junctions on the A27. This would have provided a more accurate account of trip generation. The draft SPD acknowledges that the impact of an individual development on the A27 will vary depending on its characteristics, including dwelling sizes and location. Whilst the contributions set out in the SPD do vary according to dwelling size, no account is made for the variations in location and existing land uses, which means that the contributions being sought are not derived in a proportionate manner. The approach set out in the draft SPD would therefore fail the CIL Regulation 122 tests for not being *“fairly and reasonably related in scale and kind to the development”*.
- **Mitigation proposals** - the planned mitigation schemes at Fishbourne and Bognor roundabouts are to be funded exclusively by residential development, despite Local Plan Review Policy E1 allocating 28,000sqm of new business floorspace at ‘Land South of Bognor Road’. Consequently, the contributions being sought for residential development would fail the CIL Regulation 122 tests for not being *“fairly and reasonably related in scale and kind to the development”*. Secondly, the Transport Study confirms that the planned mitigation could accommodate a further 2,970 dwellings in the Southern Plan Area, which would reduce the per dwelling contribution. At best, this means that the cost of mitigation could be reduced in the interests of viability and affordable housing delivery. At worst, it means that the cost of mitigation would fail the CIL Regulation 122 tests for not being *“fairly and reasonably related in scale and kind to the development”*.

2.7 These are exactly the type of issues that paragraph 004 Reference ID: 23b-004-20190901 of the PPG is seeking to avoid, where concerns regarding the evidence underpinning planning obligations need to be properly tested through a Local Plan examination. The draft SPD should follow the Local Plan process only after the evidence base and subsequent policies are properly set. Paragraph 4.19 of the draft SPD outlines the adoption process for the current SPD and why it was successful in delivering a proportionate approach to contributions (my underlining for emphasis).

“The 2016 SPD was adopted soon after the adoption of the current Local Plan. It was therefore possible to assess the proportionate impact of the various developments allocated in the Local Plan by reference to the anticipated number of vehicle trips that would be generated in each case. This was then used to derive a ‘contribution per dwelling’ based on the trip generation modelling as a proxy for the likely impact on the A27 Bypass of each site allocation.”

2.8 The Council’s justification for not repeating this logical process is the absence of an up-to-date Local Plan. That is a failure on the Council’s part and the premature adoption of an SPD is not an appropriate solution. The appropriate solution is to get an up-to-date Local Plan in place as soon as possible, whereby contributions can be sought on a sound and proportionate basis.

2.9 With the above considerations in mind, it is clear that the evidence base for the draft SPD is unsound and untested. It is premature and should not be adopted unless and until the Local Plan Review is found sound at Examination. The draft SPD should then be updated as necessary to reflect the terms of the adopted Local Plan Review.

Appendix 1



Appeal Decision

Hearing held on 25 July 2023

Site visit made on 24 July 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/L3815/W/21/3280933

Land at Flat Farm, Broad Road, Hambrook, West Sussex, PO18 8SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by PNH Properties Ltd against Chichester District Council.
 - The application Ref 20/03378/OUT, is dated 21 December 2020.
 - The development proposed is described as the erection of 30 dwellings comprising 21 market and 9 affordable homes, access and associated works including the provision of swales.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 30 dwellings comprising 21 market and 9 affordable homes, access and associated works including the provision of swales, at Land at Flat Farm, Broad Road, Hambrook, West Sussex, PO18 8SH, in accordance with the terms of the application Ref 20/03378/OUT, dated 21 December 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters reserved except access. Whilst I have therefore treated the submitted plans as indicative, the layout shown **has been used to inform the scheme's nutrient budget, and a submitted Unilateral Undertaking (UU) secures part of the site as open space.** The plans therefore provide a reasonable indication of the layout likely to be submitted at reserved matters stage.
3. Immediately prior to the Hearing the appellant proposed a change to the description of development, removing specific details other than the number of dwellings. At the Hearing the Council agreed in principle, though both it and interested parties objected to the resulting potential for the split between market and affordable housing to be altered. This was indeed the underlying reason for the proposed change.
4. Regardless of the particular merits of any given split between market and affordable housing, and notwithstanding the fact that outline proposals can be simply described, it remains the case that the application was made and appealed on the basis of a specific number and mix of dwellings. Moreover, the **appellant's proposed change** was not subject of any broader public consideration within the context of the appeal itself. I have not therefore modified the description within the banner heading or within my decision above.

5. The Council failed to determine the application within the required timeframe. I have **however had regard to the Council's submissions in defining the main issues below**, noting that the matters in dispute have been subject of change over time.

Main Issue

6. The main issue is whether contributions towards mitigating the effect of additional trips on the operation of the A27 should be calculated with reference to adopted or emerging policy.

Reasons

7. The development would result in increased use of the local highways, including the A27, which suffers from congestion.
8. Policy 9 of the Chichester Local Plan: Key Policies 2014-2029 (the Local Plan) sets out the requirement for impacts on existing infrastructure to be mitigated, whilst Policy 8 sets out the specific measures, including a coordinated package of junction improvements to the A27. This is expanded upon within the Planning Obligations and Affordable Housing Supplementary Planning Document 2016 (the SPD) which sets out the funding formula. The appellant raises no objection to paying the contribution, and this is secured by the UU.
9. The Council wishes to replace the existing scheme with another which is set out within draft Policy T1 of the draft Local Plan. This lists a revised scheme of improvements, some of which are currently identified in the SPD. The emerging Local Plan has yet to be examined, and unresolved objections have been raised in relation to draft Policy T1 itself. As at this stage there is no certainty that draft Policy T1 will be adopted in its current form, it attracts limited weight, and the Council accepts this.
10. The Council has however sought to draw attention to the evidence base for draft Policy T1, and specifically the Chichester Transport Study: Local Plan Review Transport Assessment 2023. This, it asserts, justifies a level of contribution in line with that set out in draft Policy T1. It furthermore suggests that the deliverability of the draft Local Plan would itself be jeopardised in the absence of these contributions. This is again notwithstanding the fact that the draft Local Plan may not ultimately be adopted in its current form.
11. Whether any more than an upper end estimate of the likely costs of improvements identified in draft Policy T1 will ever be provided is unclear. However, the fact that project design and costing work has yet to be finalised accentuates the above uncertainty.
12. The Planning Practice Guidance (the PPG) makes clear that policies for planning obligations should be set out in plans and examined in public. It additionally states that it is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. The approach advocated by the Council therefore directly conflicts with that set out in the PPG.
13. The existing formulaic approach for funding the A27 is itself set out within a supplementary planning document. However, insofar as the PPG refers to 'new'

formulaic approaches, the SPD pre-dates the 2019 revision of the PPG which saw this text introduced.

14. Paragraph 110 of the National Planning Policy Framework (the Framework) states that decisions should ensure that significant impacts from a development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. In this regard, the cumulative effect of increased trips on the A27 to which the development would give rise, would be mitigated to an acceptable degree by a policy compliant contribution. I am therefore satisfied that the obligation securing a contribution in line with Policy 9 and the SPD passes the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 **(as amended), and paragraph 57 of the Framework (collectively 'the tests')**.
15. The UU has been drafted to also secure a contribution in line with draft Policy T1. Given my findings above, the obligation securing this contribution does not pass the tests and cannot be taken into account.
16. For the reasons outlined above I conclude that a contribution towards mitigating the effect of additional trips on the operation of the A27 should be calculated with reference to adopted policy, and that the development would thus be compliant.

Other matters

Protected species

17. Common Lizards have been identified on site, and mitigation measures recommended. These can be secured through the imposition of a condition.

Habitats sites

18. The site lies close to and within the catchment of the Solent, which is covered by multiple habitats sites designations. Those directly relevant are the Chichester and Langstone Harbour Special Protection Area (SPA) and Ramsar, the Solent and Southampton Water SPA and Ramsar, the Portsmouth Harbour SPA and Ramsar, and the Solent Maritime Special Area of Conservation (the habitats sites). The proposed development would support an increase in population, giving rise to increased discharges of waste water, and a likely increase in use of the habitats sites for recreational purposes. Potentially significant in-combination effects on the integrity of the habitats sites cannot therefore be excluded. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an Appropriate Assessment is therefore required.
19. The designation of the habitats sites relates to the priority habitats and species, including the range of birds, that they support. Conservation objectives seek to maintain or restore integrity, including that of qualifying features. Increased discharge of nutrients in waste water would contribute towards harmful eutrophication, whilst increased use of the habitats sites for recreational purposes could cause degradation and disturbance, all at odds with the conservation objectives.
20. **The Council's strategy for mitigation of recreational disturbance is set out** within the Solent Recreation Mitigation Strategy 2017, which was produced in cooperation with Natural England (NE). Mitigation is achieved by the funding of

Site Access Management and Monitoring measures through developer contributions. The required contribution has been secured by an obligation within the UU, which, on the above basis, passes the tests.

21. As advised by NE, mitigation of nutrients in wastewater is achieved by demonstrating nutrient neutrality. In this regard the appellant has proposed that the additional nutrient load would be offset through the purchase of credits representing land that would be removed from agricultural production at a nutrient offsetting site. The use, management and administration of land at the offsetting site is separately governed by an existing Section 106 agreement between the landowner, and the Council and South Downs National Park Authority. The scheme itself has again been established in consultation with NE. Within this context, the appellant has provided an allocation agreement entered into with the owner of the offsetting site to purchase the credits necessary. The agreement demonstrates that the additional nutrient load from the development can be offset. This in turn enables a condition to be imposed that would restrict commencement of the development until evidence of the related transaction was supplied.
22. NE has not provided any specific comment for the purposes of this AA. However, I am satisfied that the above measures are in accordance with its advice. My findings above allow me to conclude that the development would not have an adverse effect on the integrity of the habitats sites.
23. As the application is in outline, details submitted in relation to the reserved matters could result in changes to the inputs used to calculate the nutrient budget, and thus the level of required mitigation. Within this context it would **be the Council's responsibility to** ensure that my findings above remained valid.

Other obligations

24. Obligations within the UU additionally secure policy compliant provision and future management of on-site open space and affordable housing, together with a monitoring fee. I am satisfied that each passes the tests.

Pylons

25. Concern was raised by interested parties at the proximity of pylons, and the effect that this could have on access to mortgage finance and tenures. The Council expressed similar concern at an earlier stage in the appeal process, albeit this was withdrawn upon consideration of a 2021 appeal decision which involved a 100% affordable housing scheme on the same site. Whilst the appeal was dismissed, it was nonetheless established that the proximity of pylons would not prevent access to mortgage finance or the provision of an acceptable range of tenures. Despite the differences between the 2 schemes, I have no reason to reach a different view in relation to the current case.

Housing supply

26. The development would comply with the development plan taken as a whole. As the Council lacks a demonstrable 5-year supply of deliverable housing sites, the policies most important for determining the application are nonetheless **deemed 'out-of-date'**. Within this context paragraph 11 of the Framework indicates that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Here

the relevant parts of the policies with which I have established compliance are broadly consistent with those in the Framework. The Framework therefore indicates that planning permission should be granted, thus providing an additional indication that the appeal should be allowed.

Conditions

27. Conditions (1) – (4) are standard conditions setting out the procedure for approval of the reserved matters, the time period for commencement, and identifying the approved access plan for sake of certainty.
28. Condition (5) secures the provision of an Ecological Mitigation and Enhancement Strategy, drawing together previously submitted information within a single updated source. The condition is required in the interests of safeguarding protected species and ensuring that opportunities are taken to enhance biodiversity. The strategy will necessarily inform the details to be submitted in relation to the reserved matters.
29. Condition (6) secures provision of a lighting strategy within the context of the reserved matter of appearance. This is in the interests of safeguarding amenity and biodiversity.
30. Condition (7) secures provision of spot heights in relation to the reserved matter of scale, thus ensuring greater precision in the information submitted.
31. Condition (8) requires evidence of the purchase of credits in respect of the nutrient offsetting site, as considered above. The condition is necessarily drafted to prevent commencement of development until this has been provided, thus ensuring no adverse effect on the integrity of habitats sites.
32. Condition (9) secures a scheme of investigation and remediation in relation to possible contamination of the site. This is in the interests of health and safety. The condition is required pre-commencement as risks may arise from the outset of works. Condition (13) addresses unexpected risks which may arise at a later stage.
33. Condition (10) secures a scheme of surface water drainage, maintenance and management, which is required in order to ensure that the development is properly drained. The condition is required pre-commencement given the investigative works required in advance.
34. Condition (11) secures the provision of an Arboricultural Method Statement and Tree Protection Plan. Whilst some details have already been submitted, each of the above must necessarily be informed by the development layout as finalised through the reserved matters. The condition is again required pre-commencement given that trees may be affected from the outset of works.
35. Condition (12) secures a construction management plan in the interests of neighbour amenity. As impacts would arise from the outset of works the condition is once again required to be pre-commencement.
36. Condition (14) secures compliance with the optional Building Regulations standard limiting consumption of wholesome water to 110 litres per person per day. This is in accordance with Policy 40 of the Local Plan.
37. There is no need for a proposed condition requiring a landscaping scheme as this is a reserved matter. I have also not imposed a condition requiring either a

noise mitigation scheme or air quality assessment. This is because no evidence has been provided which indicates that the development would be subject of unacceptable levels of noise or air pollution. Nor have I imposed conditions requiring provision of EV charging points or a fire hydrant, as these are matters covered by the Building Regulations. Insofar as conditions requiring details of connections to utilities have also been requested, I have no reason to believe that these would not be provided. Southern Water has furthermore confirmed that capacity exists to accommodate the development. Finally, I have not imposed a condition requiring performance in excess of the Building Regulations in relation to energy consumption, or requiring a proportion of future energy use to be derived from renewable sources. This is because these requirements are not set out with an adopted development plan policy.

Conclusion

38. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 5408/001 Rev. A.
- 5) Prior to submission of the first reserved matters application an Ecological Mitigation and Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall be informed by the recommendations of the submitted Reptile Survey and Mitigation, Phase II Bat Surveys, and Preliminary Ecological Appraisal reports, with updates as required. The development shall be implemented in accordance with the approved strategy.
- 6) Details to be submitted in relation to the reserved matter of appearance shall include a lighting strategy whose purpose will be to demonstrate how the design, specification and operation of external lighting will minimise its impacts on the occupants of nearby dwellings and biodiversity.
- 7) Details to be submitted in relation to the reserved matter of scale shall include existing and proposed ground levels, proposed finished floor levels, and the proposed completed height of all buildings.
- 8) The development hereby permitted shall not commence unless the Local Planning Authority has received the Notice of Purchase of the Credits Linked Land identified in the Nitrogen Mitigation Provision Report dated 25 July 2023,

and issued in accordance with the provisions of the legal agreement between CDC, SDNPA and John Holt dated 21 December 2022.

- 9) The development hereby permitted shall not commence until a scheme that includes the following components addressing the risks associated with potential contamination of the site has been submitted to and approved in writing by the Local Planning Authority:
 - a) a site investigation scheme based on the recommendations of the submitted Environmental Desk Study and Preliminary Risk Assessment dated January 2021, to provide information for a detailed assessment of the risks to all receptors that may be affected, including those off site.
 - b) the results of the site investigation and detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - c) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.The scheme shall then be implemented as approved.
- 10) The development hereby permitted shall not be commenced until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy set out in the SUDS Manual produced by CIRIA, and shall be informed by winter ground water monitoring to establish highest annual ground water levels, and percolation testing to BRE 365, or any subsequent version. The scheme shall include a timetable for its implementation, and a management and maintenance plan for the lifetime of the development, setting out any arrangements for adoption by a public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme. The approved scheme shall then be implemented in accordance with the timetable, and managed thereafter in accordance with the management and maintenance plan.
- 11) Notwithstanding details previously submitted, the development hereby permitted shall not be commenced until an Arboricultural Method Statement and Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance.
- 12) The development hereby permitted shall not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall be compatible with the Ecological Mitigation and Enhancement Strategy, Arboricultural Method Statement, and Tree Protection Plan approved in relation to Conditions (5) and (11), and shall include:
 - a) the days and hours when works shall take place on site;
 - b) the hours and days on which deliveries and other servicing shall take place;
 - c) identification of the location(s) in which plant, building materials and waste will be stored;
 - d) identification of the location(s) in which delivery and construction vehicles will load or unload;

- e) identification of the location(s) in which site operatives and visitors will park;
- f) details of waste management measures;
- g) details of the means of enclosure of and/or boundary hoarding around the site;
- h) details of lighting;
- i) details of measures to be taken to avoid soil and debris being spread onto the adjacent highway;
- j) dust suppression measures; and
- k) noise controls.

The development shall then proceed in accordance with the approved CMP.

- 13) Any contamination that is found during construction of the development hereby permitted that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
- 14) The dwellings hereby permitted shall be constructed in accordance with the optional requirement limiting consumption of wholesome water set out within Regulation 36(2)(b) of the Building Regulations.

APPEARANCES

For the Appellant

Peter Cleveland

Head of Planning, Henry Adams LLP

Stephen Evans

Director Transport Planning, Pell Frischmann

For the Council

Peter Home

Gillings Planning

Andrew Robbins

Senior Planning Officer

Interested Parties

Jane Towers

Chidham and Hambrook Parish Council

Documents presented at the Hearing

Email correspondence between the appellant and National Highways.

Email correspondence between the appellant and West Sussex County Council.

Appendix 2

Project Name:	Harris Scrapyard and Oaks Farm, Southbourne
Document Reference:	110.0010/LPR/1
Document Name:	Chichester Local Plan Reg 19 Repts Note
Prepared By:	Tom Fisher (March 2023)
Checked By:	Mark Smith (March 2023)
Approved By:	Mark Smith (March 2023)

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1. INTRODUCTION

1.1 This Technical Note (TN) has been prepared by Paul Basham Associates on behalf of Metis Homes to assess the Regulation 19 Chichester District Local Plan review from a highways perspective in support of their proposed development site at Harris Scrapyard and Oaks Farm and the wider draft Policy A13 Southbourne Broad Location for Development.

1.2 Chichester District Council (CDC) are currently consulting the public on the emerging Local Plan (2021-2039) (Local Plan) between 3rd February and 17th March 2023. CDC have published a Proposed Submission document as part of the Regulation 19 submission.

1.3 Within the emerging Local Plan, Policy A13 relates to Southbourne which has been identified as an area which can provide a mixed-use development including up to 1,050 homes. The Policy contains a number of requirements which need to be met for sites within the Broad Location, and the following relate to transport and highways:

- *Provide a suitable means of access to the site(s), securing necessary off-site improvements (including highways) in conformity with the Policy T1 (Transport Infrastructure) and T2 (Transport and Development) to promote sustainable transport options;*
- *Provide any required mitigation to ensure there is no adverse impact on the safety of existing or planned railway crossings;*
- *Ensure adequate provision of supporting infrastructure including education provision, community facilities and transport in accordance with the most up to date Infrastructure Delivery Plan;*

1.4 Chapter 8 of the CDC emerging Local Plan relates to Transport and Accessibility and has also been considered.

2. POLICY A13 SOUTHBOURNE BROAD LOCATION FOR DEVELOPMENT

- 2.1 A planning application has been submitted for 103 dwellings and a children’s nursery for 70 children on land at Harris Scrapyard and Oaks Farm, Southbourne (ref: 22/01283/FULEIA), which sits within the broad area of Policy A13.
- 2.2 The site is located within Southbourne c.8.7km to the west of Chichester and c.6.2km to the east of Havant. The site currently comprises a car breakers yard and two private properties with associated curtilage. The site is bordered by a railway line to the north, agricultural land and properties to the east, Main Road (A259) to the south and vacant land to the west. The site’s location and context are demonstrated in **Figure 1**.



Figure 1: Site Location

Site Accessibility

- 2.3 The availability of facilities and services within walking and cycling distance of the site has been assessed within the Transport Assessment associated with the application, along with the quality of the route and infrastructure linking to those facilities. Distances have been taken from the approximate centre of the site. The time to walk and cycle to these services

and facilities has been calculated based on a walking speed of 80m per minute and a cycling speed of 240m per minute. The site affords a good level of accessibility to local amenities, such as a bus stop, a medical centre, a primary school and a railway station as outlined in **Table 1**.

Service	Distance from site (m/km)	Travel time (minutes)	
		Walking (based on a speed of 80m per minute)	Cycling (based on a speed of 240m per minute)
Eatery (MAMAWU)	300m	4	1
Bus Stop (ID: Farm Lane)	315m	4	1
Petrol Station (Esso)	450m	6	2
Medical Centre (Southbourne Surgery)	700m	9	3
Public House (The Traveller's Joy)	800m	10	3
Farm Shop	950m	12	4
Pharmacy (Boots)	1.0km	13	4
Church (Southbourne St John the Evangelist)	1.1km	14	5
Primary School (Southbourne Infant and Junior School)	1.1km	14	5
Convenience Store (The Co-operative)	1.2km	15	5
Post Office	1.2km	15	5
Nursery (Loveders Nursery School)	1.2km	15	5
Railway Station (Southbourne)	1.4km	18	6
Library (Southbourne Library)	1.4km	18	6
Eatery (Golden Chopstick)	1.4km	18	6
Secondary School (Bourne Community College)	2.0km	25	8
Gym (Bourne Community Leisure Centre)	2.0km	25	8

Table 1: Distance to Local Amenities

- 2.4 As demonstrated in **Table 2**, the site provides a good opportunity to promote sustainable travel within Southbourne, with the vast majority of local services and amenities accessible within an 18-minute walk or six-minute cycle.
- 2.5 Walking and cycling isochrone maps are attached as **Appendix A**, demonstrating that the site affords a good level of accessibility.
- 2.6 The nearest bus stops to the site are situated on Main Road (A259) and are served by two bus services including a frequent service on the 700 Stagecoach bus throughout the day. The

bus stops are located approximately 315-360m from the centre of the site and are accessible within a four-five-minute walk.

- 2.7 Southbourne Railway Station is located approximately 1.4km to the northwest of the centre of the site and is accessible via an 18-minute walk or six-minute cycle.
- 2.8 WSCC state in their response dated 6th October 2022 that *'the Local Highway Authority considered that the location is in an accessible location.'*

Proposed Access

- 2.9 The proposed access is in the form of a priority bellmouth junction to the west of the existing access, with a right turn lane provided on the A259 Main Road. Improvements would be provided to pedestrian infrastructure in the form of dropped crossing points with tactile paving across the junction, and a new uncontrolled pedestrian crossing island to the west of the access to allow pedestrians from the site and local area to safely cross the A259. West Sussex County Council, as the highway authority, have agreed to the access in principle, which is attached as Appendix B.

Highway Impact

- 2.10 The impact of the proposed development at the site access local junctions has been assessed to support the live planning application. It was concluded by WSCC highways that the impact of the development can be accommodated by the aforementioned junctions and no junction mitigation is required.
- 2.11 A financial contribution of £1,803 per dwelling has been sought by National Highways to mitigate the impact of the development on the A27 corridor which Metis Homes have accepted to be included within the Section 106 agreement.

3. POLICY T1, T2, T3 AND T4

- 3.1 Within Chapter 8: Transport and Accessibility, there are four main transport policies which are:
- T1 Transport Infrastructure
 - T2 Transport and Development
 - T3 Active Travel – Walking and Cycling Provision

- T4 Parking Provision

T1 Transport Infrastructure

- 3.2 This policy sets out the requirement for development to demonstrate how it support four key objectives set by CDC to ‘alleviate pressure on the road network, improve highway safety, encourage sustainable travel behaviours and help improve air quality’.
- 3.3 As highlighted within Section 2 of this report, there are extensive facilities and amenities within a suitable distance of the development site which can be accessed by sustainable travel modes and not rely on the use of private car. This is confirmed by WSCC who state that *‘the Local Highway Authority considered that the location is in an accessible location’* (6th October 2022).
- 3.4 A Framework Travel Plan has been submitted to support the application which would be secured by CDC to reduce the reliance on private car use. The Travel Plan would support future residents into making sustainable travel choices to reduce the over reliance of the local road network.
- 3.5 A contribution of £1,803 per dwelling is being offered from this development towards improvements along the A27 corridor. This will be secured through a Section 106 legal agreement and paid *‘prior to 56 dwellings [or 50% as the number of units have dropped]’* as per National Highways response dated 1st July 2022, for payment to ensure timely delivery of transport infrastructure. This has been accepted by National Highways and WSCC.
- 3.6 The planning application therefore meets Policy T1 within the emerging Local Plan.

T2 Transport and Development

- 3.7 WSCC have offered no objection to the proposals submitted with the current live planning application. The proposals include assessing the off-site highway impacts, internal site layout review and new proposed access.
- 3.8 To support the planning application, a Transport Assessment, Transport Assessment Addendum, Framework Travel Plan and Environmental Statement, with subsequent Air Quality chapter, were submitted.

- 3.9 It is therefore concluded that the planning application meets Policy T2 within the emerging Local Plan.

T3 Active Travel – Walking and Cycling Provision

- 3.10 A feasibility document for a proposed Chichester to Emsworth Cycle Route was published by National Highways in 2021. Since this publication and initial engagement period with the public, there have been no further details released regarding this proposal. Despite this, if the plans were to be brought forward, the proposed site and access arrangements would not prejudice the deliverability of a cycle route which WSCC have agreed.
- 3.11 The access, as shown in **Appendix B**, provides a pedestrian crossing point west of the proposed access across the A259. This crossing point will be equipped with dropped kerbs, tactile paving and a pedestrian refuge island. In addition to the proposed western pedestrian crossing point, a second pedestrian crossing point has been proposed across the site access junction. This crossing point will be equipped with dropped kerbs and tactile paving. The designs have been subject to an independent Stage 1 Road Safety Audit and WSCC have accepted the design as suitable for the quantum of development proposed.
- 3.12 The development proposes that adequate cycle storage would be provided in line with the recommended standards for each dwelling, within rear gardens or garages for houses or a shared cycle store for the flats.
- 3.13 The planning application therefore accords with Policy T3 within the emerging Local Plan.

T4 Parking Provision

- 3.14 This policy sets out that all development should demonstrate that it meets the West Sussex Parking Standards Guidance (2020) or subsequent standards adopted by CDC or WSCC.
- 3.15 The application is providing 250 car parking spaces with 23 visitor spaces for the residential element of the development which is over the prescribed quantum set out in the aforementioned parking standards.
- 3.16 WSCC do not provide parking standards for day nurseries (E - Commercial, Business and Service) and as such parking provision is provided on the basis of a site-specific assessment based on travel plan needs. Therefore, the proposed development will provide 17 car parking spaces for the nursery.

- 3.17 The above levels of parking have been accepted by WSCC and therefore the planning application conforms with Policy T4.

Summary

- 3.18 Having regard to the above, it has been shown that the live planning application 103 dwellings and a children's nursery for 70 children on land at Harris Scrapyard and Oaks Farm, Southbourne (ref: 22/01283/FULEIA), does not prejudice the delivery of Southbourne Broad Location allocation within the Local Plan and could form part of the allocation itself. It has been shown that the proposed development meets the policies and aims set out within the emerging CDC Local Plan.

4. CHAPTER 8: TRANSPORT AND ACCESSIBILITY

- 4.1 This section of the TN will review Chapter 8: Transport and Accessibility, as currently drafted within the emerging Local Plan.
- 4.2 Paragraphs 8.3 and 8.4 relate to existing capacity on the road network within the Chichester authority, including *"congestion around the junctions of the A27 Chichester by-pass which in turn, leads to congestion on the local road network as drivers seek alternative routes, increasing traffic speed and flow on those alternative routes... The Local Plan Transport Study shows that in many parts of the plan area, the road network is operating at or close to designed capacity."*
- 4.3 In January 2023 Stantec prepared the '*Chichester Transport Study: Local Plan Review Transport Assessment*' (Transport Assessment) to inform the transport evidence base for the Chichester Local Plan Review 2021-2039. The transport study was completed based on the current local plan proposals of 10,354 dwelling for the period 2021-2039. It is understood West Sussex County Council and National Highways have been consulted in the drafting of this report.
- 4.4 The base year for the model is 2014, which has been validated by Chichester District Council, West Sussex County Council and National Highways using 2014 count and journey time data. The suitability of a 2014 base year however is questionable given the time between 2014 and 2023 and the significant changes in traffic patterns which have occurred in the interim, largely as a result of the Covid-19 pandemic.
- 4.5 Since Covid, many employers now offer flexible working, with many employees adopting a hybrid working approach incorporating working from the office and at home. The current

2023 Transport Assessment does not appear to take into account any of the change which will impact existing and future peak time travel patterns. Of note, the Stantec Transport Assessment page 10 references the *'significant changes in travel behaviour alongside technology advances [that] have been seen in recent times, and the Covid-19 pandemic has accelerate these changes with significantly more people working from at home and shopping online (virtual mobility)'*.

- 4.6 In addition, Section 10 of the Transport Assessment the report states that *'there is a reduced traffic growth [between TEMPro 7.2 and TEMPro 8.0] as a result of falling population... as a result there is a need to review and comment and define the possible difference in predicted changes in travel demand in the future... as the model may have overestimated the potential future impacts'*. It continues *'the data indicates that the levels of traffic growth expected within Chichester are lower in each of these scenarios than currently have been modelled'* (Para 10.2.1).
- 4.7 The natural conclusion from the Stantec report is that where overly inflated traffic volumes have knowingly been used within the baseline models that are not an accurate reflection of the current situation, limited weight can be given to the modelling outputs.
- 4.8 8.12 confirms CDC's approach to traffic assessment is altering from the traditional 'Predict and Provide' methodology for 'Monitor and Manage'. However, the Stantec Transport Assessment is prepared a wholly 'Predict and Provide' methodology, with no consideration to behavioural change opportunities and how that might affect the local and strategic road network in Chichester.
- 4.9 Paragraph 8.5 within the emerging Local Plan states that National Highways confirmed that the A27 Chichester By-Pass major improvement scheme is included within Road Investment Strategy Pipeline for 2025-2030, however it's funding and inclusion is not guaranteed. Therefore CDC state they will continue to progress interim measures (i.e. pooling of developer contributions) which will enable development to take place while a long-term strategic solution is progressed.
- 4.10 Having identified a series of mitigation packages to the A27, and provided associated costings, Paragraphs 8.20 and 8.21 set out a requirement for a sum to be met for 'all other housing development' (which Southbourne Broad Location for Development would fall into) towards the mitigation schemes at the Fishbourne Roundabout and the Bognor Road Roundabout. This is calculated by the upper estimate costs of the two mitigation packages

(£43,320,000), minus the already accrued S106 monies (£15,877,407), and presumes no match funding by local authorities or financial input by National Highways despite the two junctions being identified as ‘priorities’ by CDC monitor and manage approach set out in paragraph 8.11 and 8.12 of the Local Plan.

- 4.11 As a result, CDC identify a mitigation cost of £7,728 per household (through dividing the total outstanding cost of the higher value estimate by the additional 3551 homes identified in the latest plan). This is a substantial increase of £5,925 per dwelling compared to the current SPD value of £1,803 per dwelling, and the following paragraphs outline multiple concerns with the approach and values identified.

Failure to consider development site relationship to the A27

- 4.12 As per agreed vehicular distribution for both 18/03145/OUT ‘Land North of Cooks Lane, Southbourne’ and 22/01283/FULEIA Harris Scrap Yard and Oaks Farm, which has derived from Census 2011 Journey to Work data, only 13% of vehicles from the Southbourne Middle Super Output Area would travel as far as the A27/A259 (Fishbourne) roundabout. Of these 13%, 3% would travel east on the A27 and through to the Bognor Road roundabout.

- 4.13 The proposed approach within the emerging Local Plan does not account for a proportional impact from each development site. It is questioned whether this would pass the tests for planning obligations set out in the Community Infrastructure Levy (2010) regulations, in particular 122 in respect to being:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

- 4.14 Sites contained within the existing Chichester Local Plan (2014-2029) and other speculative development sites have been required to pay a contribution towards improvement which was based on A27 Chichester Bypass – Developer Contribution Analysis for Strategic Development Options and Sustainable Transport Measures (October 2015). This report set out the individual impact of allocated developments and calculated a proportional impact for each site, in effect sites which added more traffic through the identified junctions for mitigation, were required to pay a higher contribution. For example:

- 20/03125/OUT – Land South of Clappers Lane - £3,248 per dwelling
- 18/03145/OUT – Land North of Cooks Lane - £1,803 per dwelling
- Strategic site in Tangmere - £5,914 per dwelling

Failure to acknowledge brownfield development

- 4.15 The emerging Local Plan fails to make any allowances for brownfield residential development in respect to the A27 contribution. Development of brownfield sites will often result in a reduced impact of residential sites due to existing vehicular trips being already on the local road network originating from the existing land use. There are significant costs with making brownfield sites developable (including Harris Scrapyard) which may give rise to land becoming unviable to develop or require reductions in mitigation for other policy areas, such as affordable housing. It is inconceivable and illogical that should a new residential development proposal generate less vehicular traffic than the current brownfield use on the site, there would still be a requirement to make contributions in accordance with the proposed value per dwelling.

Failure to acknowledge non-residential land uses

- 4.16 At present there is no policy requirement for any other form of development beyond residential to provide a specific level of contribution to the Fishbourne Roundabout and Bognor Road Roundabout, including the potential allocation of Policy A20 South of Bognor Road for at least 28,000sqm of employment floorspace. Traffic generated by such allocations must surely have been factored into the modelling assessment, but the burden of mitigation cost placed wholly on residential development.

Ambiguity in assignment of contributions

- 4.17 Paragraph 8.22 sets out that *'Contributions secured will be used either towards the identified junction infrastructure improvements, and/or other highway capacity improvements identified through the Monitor and Manage process'*. Chichester District Council's Community Infrastructure Levy Charging Schedule does allow for CIL Payments in Kind, although it is not clear that this would be subject to this policy. It should not be for a development in one area e.g. Southbourne, to provide S106 monies to mitigate a development site in Tangmere or vice versa as this would not be CIL compliant. It also provides no benefit to the residents of developments which could otherwise be used on mitigating or improving infrastructure directly related to the site.

Sustainable modes of travel

- 4.18 Based on the above and despite the four transport policies T1, T2, T3 and T4, the direction and priorities of the emerging Local Plan appear to be significantly weighted to providing additional capacity for vehicular traffic, coming at significant costs for development sites within the emerging Local Plan. This is contrary to the direction of national and other local policies which is moving away from capacity-led schemes to provide greater emphasis on sustainable development and transport opportunities. This is also stated within the Stantec Transport Assessment which states *'At a broader level, it is generally now considered that potential sustainable mitigation measures should have priority over highway capacity mitigation (page 10).'*
- 4.19 The Transport Assessment includes an overall 5% reduction has been assumed within the Strategic Local Plan locations to represent a result of development specific travel planning and behaviour change. Section 6 of the Transport Assessment highlights *'Consideration of Sustainable Mitigation Measures'* which present a number of sustainable mitigation options; Car park management, office space charging, walking and cycling, public transport and park and ride. However, these are not modelled within the Transport Assessment. It has not been robustly assessed that these changes could offer significant reductions in private car use and provide more cost-efficient ways to mitigate the impact of additional development allocations within the Local Plan.
- 4.20 To provide the greatest opportunity for sustainable travel modes to be utilised, CDC are choosing locations for developments as per paragraph 8.6 which states *'In the first instance, development will be directed to the most sustainable locations where the need to travel is reduced or there are suitable alternatives to the car.'* This is not carried through the contributions methodology, providing a singular figure that does not reduce for locations which are considered sustainable and would have less impact on the junctions identified for mitigation within the Transport Assessment.
- 4.21 The significant cost per dwelling as proposed at £7,728 may limit a development sites opportunity to provide improvements to existing sustainable transport infrastructure and provide new infrastructure to support future growth and therefore would not be able to maximise the opportunities for modal shift to sustainable transport.
- 4.22 In addition to the above, the Transport Assessment aim was not to address Chichester's current transport issues but seek not to exacerbate them as a result of proposed Local Plan developments. Whilst this is not an uncommon approach for individual development, it

seems to be underwhelming on a strategic level for Chichester to not look to significantly alter travel habits which would in turn, reduce trips on the local and strategic road network.

Summary

- 4.23 Having regard to the above it is concluded that the Chichester Local Plan (2021-2039) has not provided a robust evidence base to justify the £7,728 per dwelling contribution towards improvements at the Fishbourne and Bognor Road roundabouts.
- 4.24 Mitigating circumstances for proposed development allocations have not been considered such as; location of development, actual impact on the aforementioned junctions and whether the site has existing use and is considered brownfield (i.e. net traffic impact).
- 4.25 Chapter 8: Transport and Accessibility seems to be weighted heavily on providing significant road capacity improvements which is not in line with the national policy shift towards providing new and improvements to sustainable transport infrastructure.