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## Representation to the Interim Policy Statement

Project: Chichester District Council Interim Policy Statement Housing  
On behalf of: Artemis Land and Agriculture Ltd  
Date: 10 July 2020

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## A. SUMMARY AND CONCLUSION

1. This representation to Chichester District Council's Draft Interim Policy Statement on Housing ("the Interim Policy Statement") has been prepared by DLBP Ltd on behalf of Artemis Land and Agriculture Ltd, the owner and operator of Crouchlands Farm.
2. We welcome the Council's admission that it will be unable to demonstrate a five year housing land supply from 15 July 2020, but are concerned that the publication of the Interim Policy Statement is seeking to add an unnecessary layer of guidance that will prohibit residential development, rather than boost the housing supply.
3. In circumstances where a five year housing land supply cannot be demonstrated, there are already local and national policies to guide development, such as:
  - the Chichester Local Plan (Policy I) which sets out the planning exercise to be undertaken where the Council cannot demonstrate a five year housing land supply; and
  - the National Planning Policy Framework, a material consideration of significant weight in determining planning applications, which is also very clear as to the planning exercise that must be completed where a Council cannot demonstrate a five year housing land supply.
4. Therefore, the Interim Policy Statement should:
  - only be used as guidance as it carries less weight than local and national planning policies;
  - not replace or 'act' as the Council's emerging Local Plan;
  - continue to acknowledge that the Council has a lack of five year housing land supply;
  - reiterate the fact that the Council is now in a position where it is required to be proactive in its approach to boosting housing supply in the district;
  - clarify whether the Council's starting point for determining applications is Policy I of the Local Plan, or the presumption in favour of sustainable development as contained in the National Planning Policy Framework; and
  - set out those other Local Plan policies which the Council still considers to be up-to-date.
5. Further details about how the Council intends to intensify and speed up development at strategic site allocations and sites already underway would be welcomed, as well as further information as to the impact of the current Covid-19 pandemic on its housing land supply.
6. We therefore seek the Council's clarification that applications will be assessed against the requirements of the National Planning Policy Framework, and that the Interim Policy Statement will be used in a proactive way to boost housing supply and delivery.

## B. THE INTERIM POLICY STATEMENT

7. On 12 June 2020, Chichester District Council published its Draft Interim Policy Statement on Housing (“the Interim Policy Statement”) for consultation. This set out that, from 15 July 2020, the Council would be unable to demonstrate a five year housing land supply.

### Five Year Housing Land Supply

8. While the Interim Policy Statement sets out that the Council’s inability to demonstrate a five year housing land supply is as a result of the current Local Plan becoming more than five years old (and therefore triggering the calculation of housing supply against the standard housing methodology), the Council’s inability to demonstrate a five year housing land supply has also been compounded by:
- slow progress on delivery of the allocations in the current Local Plan;
  - the Council not granting enough planning permissions for residential development; and
  - the Council’s failure to progress its emerging Local Plan.
9. On the latter point, the Council has failed to address both the requirements of Regulation 10(a) of the Town and County Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 33 of the National Planning Policy Framework. In failing to review its current Local Plan, it has not ensured that policies remain relevant and effectively address the needs of the local community.
10. The Interim Policy Statement seeks to provide guidance as to how the Council will support proposals in the absence of a five year housing land supply. However, Policy 1 of the Chichester Local Plan is already very clear as to what the Council will do where relevant policies are out-of-date (such as where a five year housing land supply cannot be demonstrated). This is to grant permission unless material considerations indicate otherwise taking into account whether:
- i. *any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
  - ii. *specific policies in that Framework indicate that development should be restricted.*
11. As a material consideration of significant weight, the National Planning Policy Framework is also very clear as to what Councils should do where they cannot demonstrate a five year housing land supply - to apply the presumption in favour of sustainable development set out in paragraph 11(d), and grant permission unless:
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
12. Instead of adding a further layer of guidance for development proposals to comply with, the Interim Policy Statement should demonstrate how the Council will be proactive in its approach to determining residential planning applications.

### **Weight afforded to the Interim Policy Statement**

13. When determining any planning application, the Council must make a decision in accordance with its development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration of significant weight.
14. At the heart of the above requirement is the rigour of the production of development plan documents. They are subject to stringent consultation requirements, the duty to co-operate and independent examination by the Secretary of State. Local development documents, conversely, are not subjected to the same consultation requirements.
15. The Interim Policy Statement, as a local development document, has therefore not been subject to extensive rigour in its production. Limited weight can therefore be attributed to it in decision making.
16. This is confirmed by *R (Skipton Properties Ltd) v Craven District Council [2017] EWHC 534 (Admin)* (attached at **Appendix I**), which states that:

*[...] development plan documents must be subject to independent examination by the Secretary of State (section 20). Local development documents are not so subject. The combined effect of section 17(3) of the Planning and Compulsory Purchase Act 2004 and section 70(2)(c) of the Town and Country Planning Act 1990 is that local development developments are (if they are not also development plan documents) material considerations in the determination of planning applications, although **they do not carry the weight of the statutory development plan.** (Our emphasis).*
17. The Interim Policy Statement does not carry the same weight as local plan policies, nor can it carry - as a material consideration - the same weight as the National Planning Policy Framework. It also cannot replace the Council's emerging Local Plan.

### **The approach to boosting housing supply**

18. The Council states that the Interim Policy Statement forms:

*one part of the Council's proactive approach to the delivery of housing whilst the Local Plan Review progresses towards adoption. Other approaches being taken to boost housing supply and delivery include:*

- a) *prioritising progress on delivery of known sites, including West of Chichester, progressing the Tangmere Compulsory Purchase Order, and testing more long term sites, such as Southern Gateway; and*
  - b) *inviting developers to intensify and speed up development, on sites already underway.*
19. The Council states that this demonstrates how it is being proactive in reducing the shortfall and re-establishing a five year housing land supply, but there is little evidence or further information given to substantiate this claim. Further details would be welcomed about how the Council intend to do this, especially in current circumstances of Covid-19 where housing developments have already suffered from delays in construction.
20. New large-scale housing applications will need to come forward in order for the Council to meet their local housing need target of 628 dwellings per annum. The Interim Policy Statement should therefore be encouraging large-scale developments to come forward to meet this need.

### **Criteria**

21. Section 6 of the Interim Policy Statement sets out criteria against which applications will be judged, and which the Council considers as evidencing “*good quality development in the Chichester Local Plan area, with reference to adopted and emerging Local Plan policy and evidence*”.
22. The criteria set out in section 6 is not present in paragraph 11(d) of the National Planning Policy Framework which has regard for the presumption in favour of sustainable development. The criteria therefore reads as restrictive, rather than proactive in its approach in seeking to boost its supply of housing. The criteria should not act as additional policy requirements that residential planning applications will need to meet, and instead should be reflective of the National Planning Policy Framework.
23. This is exemplified in criteria 1 of the Interim Policy Statement, which states that the Council considers good quality development to be where:
- The site boundary in whole or in part is contiguous with an identified settlement boundary (i.e. at least one boundary must adjoin the settlement boundary or be immediately adjacent to it).*
24. For a site to contribute to the Council’s five year housing land supply, it must be ‘deliverable’. There is no guarantee that sites within, or immediately adjacent to, the settlement boundary will be deliverable within five years. The Framework does not set out a requirement for new residential development to be located specifically in, or adjacent to, settlement boundaries. If a site can meet the housing needs of the community, is deliverable within a suitable timeframe, and is well-designed then Councils should be proactive in supporting such proposals. This should be regardless of whether they are within or adjacent to a settlement boundary.

## C. WAY FORWARD

25. Instead of seeking to add an additional layer of policy or guidance, our recommendation is that the Interim Policy Statement should instead:
- continue to acknowledge that the Council has a lack of five year housing land supply;
  - reiterate the fact that the Council is now in a position where it is required to be proactive in its approach to boosting housing supply in the district;
  - clarify whether the Council's starting point for determining applications is Policy I of the Local Plan, or the presumption in favour of sustainable development as contained in the National Planning Policy Framework;
  - set out those other Local Plan policies which the Council still considers to be up-to-date; and
  - provide further, specific, details on other approaches being taken to boost housing supply and delivery.
26. This would, in our view, be a proactive way of steering future development.