

**Our ref: JBB8469.C7343**

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By E-mail

Dear Sir or Madam,

### **Response to Draft Interim Policy Statement Consultation**

Thank you for the opportunity to comment on the Interim Policy Statement for Housing (“IPS”) currently under consultation by Chichester District Council (the “Council”). RPS Consulting Services Ltd (“RPS”) are instructed to submit comments on behalf of our Client, Thakeham Homes Limited.

You will no doubt be aware that Thakeham Homes Limited are currently appealing the decision to refuse planning permission for the erection of 50 dwellings on Land south west of Guildford Road, Loxwood under planning permission reference LX/19/01240/FUL. This application was refused on the basis that the application site was outside the settlement boundary for Loxwood and as the Council could demonstrate a housing land supply in excess of 5 years, there was under no requirement to bring forward the development proposed. The application was therefore considered contrary to adopted policy and the principle of a plan led system and was refused under delegated powers, despite being a sustainable form of development in all other aspects. Our Client therefore welcomes the decision of the Council to publish the IPS for Housing which would now appear to support the principle of residential development on their appeal site at Loxwood. We would, however, question the need for an IPS to be published at all, given that national policy provides sufficient detail concerning decision taking in such circumstances. In Summary, RPS expresses the following concerns with the IPS, which are explored further in this letter.

- RPS is concerned that the IPS is being used to shoehorn in policies which have not been tested through Examination and cannot be considered soundly made. The IPS cannot be used as a proxy for a Local Plan. A number of policies should be reserved for the Local Plan review which will, in turn, allow the Council to give the policies the due weight they deserve in the decision-making process;
- The IPS contains a number of policies which seek to clarify the Council’s position with the engagement of the ‘tilted balance’, however this position has been set at a national level, to be assessed on a case-by-case basis. This additional layer of policy making is unnecessary;
- RPS supports the principle of development in locations adjoining existing settlement boundaries, however considers that this should be best assessed on a case-by-case basis; and
- The Council is introducing policies, such as those relating to building standards which give rise to viability concerns. This policy is not supported by a robust evidence base and lacks the scrutiny of testing that would be expected by the Council, to allow this policy to be soundly adopted.

### The National Framework

The National Planning Policy Framework (“NPPF”) is clear that the purpose of the planning system is to contribute to the achievement of sustainable development. At the heart of the Framework is a **presumption in favour of sustainable development** which allows sustainable development to be pursued in a positive way. Paragraph 11(d) states that for decision-taking this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting 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*

Footnote 7 to Paragraph 11(d) confirms that in relation to out-of-date policies this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). Therefore, where a Local Authority cannot demonstrate a five-year supply of deliverable housing land, local plan policies directing the supply of housing should be considered out of date and the presumption in favour of sustainable development, otherwise known as the ‘tilted balance’, will apply.

When applying the ‘tilted balance’ in the determination of planning applications, Criteria ii. to Paragraph 11(d) requires that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Such wording requires local planning authorities to consider development proposals holistically before reaching a conclusion as to their suitability.

The application of the ‘tilted balance’ still allows the merits of a planning application to be assessed against all other aspects of the Development Plan. Planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and must be read as a whole, however, policies contained within the Development Plan can still be taken into account, with weight given according to the degree of consistency with the Framework. As such, even without the IPS, the Council would still be able to guide residential development within the District by resisting applications on unsuitable sites where the harm of developing such sites would significantly and demonstrably outweigh the benefits.

In order to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Where shortfalls have been identified through a failure to demonstrate a five-year supply of deliverable housing land, there is a need for Councils to apply flexibility in order to boost their supply. The purpose of the tilted balance and the presumption in favour of sustainable development contained within the Framework is to allow this to happen.

Whilst it is appreciated that the proposed Interim Policy Statement for Housing is intended to guide development within the Chichester area until the local plan review is adopted, we would suggest that the guidance contained within the NPPF, read in conjunction with the remaining up to date policies in the development plan, are already sufficient. The statement confirms that *‘the Council recognises the presumption in favour of sustainable development as set out in the National Planning Policy Framework and its application where the Council is unable to demonstrate a five-year housing land supply. While the presumption applies, the Council will seek to ensure that planning applications for good quality housing developments of an appropriate scale and in accessible locations are supported’*. We would argue that Framework already performs this role, particularly through applying guidance contained on achieving well-designed places, promoting sustainable transport, making effective use of land and conserving and enhancing the natural and historic environment.

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In order to boost the supply of homes within the District, there is a need for the local authority to apply flexibility when determining applications. This approach would see the Council supporting good development in appropriate, sustainable locations. This is the approach taken by most planning authorities who have found themselves unable to demonstrate a five-year housing supply. We therefore fail to see why the approach adopted by Chichester District Council is necessary.

Through imposing an additional level of policy guidance where none is needed, the Council are creating an additional level of ambiguity when determining development proposals when what is needed is a clear message that development in sustainable locations will be supported.

#### Proposed Policies

Turning to **IHPS Policy 1**, the Council appear to be attempting to direct development to sites which adjoin existing settlement boundaries. We would suggest that this policy sets out an overly restrictive approach to development locations within the district, potentially discounting sites that may otherwise be suitable for development and could assist the Council in boosting its housing supply. This approach is not in accordance with the NPPF and the presumption in favour of sustainable development. A more flexible approach is required here.

We consider that the introduction of such standards without the opportunity to fully consider them as part of a local plan review process is wholly inappropriate, would be unlawful and open to legal challenge. The only point at which the Council can adopt new policy is as part of the examination of the local plan during which a full and proper consideration as to the evidence supporting such standards can be considered and they can be considered against the tests of soundness set out in paragraph 35 of the NPPF.

Turning to other policies contained within the IPS:

**IHPS Policy 2** requires that the scale of development is appropriate having regard to the settlements location in the settlement hierarchy. In essence, this policy follows the principles of sustainable development and guidance contained within existing planning policy, and as such, is not considered to be necessary.

**IHPS Policy 3** requires that the impact of development on the edge of settlements, or in areas identified as the locations for potential landscape gaps, individually or cumulatively does not result in the actual or perceived coalescence of settlements, as demonstrated through the submission of a Landscape and Visual Impact Assessment. We would suggest that the need to preserve existing landscapes falls within the scope of existing policies contained within the development plan Policies 47 (Heritage and Design) and 48 (Natural Environment).

**IHPS Policy 4** requires that development proposals make best and most efficient use of the land, whilst respecting the character and appearance of the settlement. This simply echoes the requirements of the NPPF at Footnote 53 to Paragraph 171. The encouragement of higher densities in sustainable locations to allow the most efficient use of the land follows the requirements of the NPPF and existing local plan Policy 33 (New Residential Development) which requires development to be of an appropriate density, and to respect and where possible enhance the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale, neighbouring and public amenity and detailed design.

**IHPS Policy 5** requires proposals to demonstrate consideration of the impact of development on the surrounding townscape and landscape character, including the South Downs National Park and the Chichester Harbour AONB and their settings. This policy does not introduce anything that is not already covered within CLP Policies 43 (Chichester Harbour Area of Outstanding Natural Beauty), 47 (Heritage and Design) and 48 (Natural Environment).

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We also note that **IHPS Policy 8** is attempting to impose additional building standards with regard to environmental performance beyond those which exist in the current adopted local plan at Policy 40 (Sustainable Design and Construction). These include:

- 19% improvement in Dwelling Emission Rates above part L;
- 10% of predicted energy consumption to be met through renewable energy source; and
- Incorporation of electric vehicle charging points.

**IHPS Policy 9** requires development proposals to be of a high-quality design that respects and enhances the existing character of settlements and contributes to creating places of high architectural and built quality. Again, this policy simply reflects the requirements of the Framework in terms of requiring good design, together with existing local plan Policies 33 (New residential Development) and 47 (Heritage and Design).

**IHPS Policy 10** requires that development is located in sustainable, accessible locations with vehicular, pedestrian and cycle links to adjoining settlements and networks. This reflects the requirements already contained within the Framework on '*Promoting Sustainable Transport*' such as *Paragraph 103* which requires that '*significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*'.

We have not made reference to the emerging Chichester Local Plan Review in the above appraisal as it is still only at a very early stage. Whilst NPPF Paragraph 48 confirms that due weight may be given to emerging local plans according to their stage of preparation, in this instance it is considered that the policies contained within the emerging local plan cannot be given any weight until they have been properly tested at examination.

## Conclusion

It is noted that the purpose of the IPS is to guide proposed development in Chichester Borough for the interim period until the Local Plan review is complete. In issuing the statement, the Council are acknowledging that its Local Plan review will not be complete by 15 July 2020, i.e. the date on which the adopted Chichester Local Plan will be more than five years old, and as such, acknowledges the requirement to calculate its housing need using the standard methodology. Using the standard methodology will result in the Council not being able to demonstrate a five year supply of deliverable housing land and as a result, its policies for the delivery of housing will be deemed to be out of date and can no longer be applied in the determination of applications for residential development.

Until the Council can demonstrate a five-year supply of housing sites, the Council should apply the presumption in favour of sustainable development together with relevant policies contained within the NPPF to guide development within the area. Those policies should be sufficient to support appropriate, sustainable development in order to boost the local housing supply. In such instances, it should not be necessary to fall back on interim guidance, such as the IPS which seeks to introduce additional controls and constraints. Such an approach is not at all flexible and may actually prevent development proposals coming forward which would otherwise be suitable. The use of interim policy guidance has not been considered necessary by other authorities who have found themselves without a five-year supply, therefore we fail to see why such an approach is required in Chichester.

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Yours sincerely,  
for RPS Consulting Services Ltd



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cc: Chris Brake – Thakeham Homes Limited