

## **Challenges to the Local Plan and Specifically Policy A11**

**Argument 1: There is insufficient wastewater treatment capacity to accommodate the additional wastewater which will be generated by the proposed housing allocation in the local plan, particularly housing along the east-west corridor including dwellings proposed in policy A11.**

Chichester District Council have admitted on page 85 of the proposed plan that:

***“4.102. It is clear that upgrades to wastewater infrastructure will be necessary to manage the increased wastewater from housing growth over the plan period whilst maintaining and improving the water quality of receiving waters.”***

In relation to Policy A11 and the proposed development at Highgrove the plan states:

***‘The development will need to be phased in such a manner as to ensure that sufficient wastewater disposal capacity is available to accommodate the requirements resulting from this development;’***

Chichester District Council is aware that Southern Water has said they do not have the capacity to accommodate these new homes. The Southern Water data for overflows from the Bosham outflow pipe shows that in the three months between November 2022 and January 2023, there were 45.65 days (1095.62 hours) of constant sewage overflow discharge. This is a 675% increase in the same period the previous year.

Southern Water calculates its capacity calculations based on dry water flows of water and not average yearly levels but even with this data which is arguably skewed in favour of development, there is not capacity for the number of dwellings proposed in policy A11 and Southern Water has suggested that they are not in a position to take steps to improve the situation until at least 2025 and possibly as late as 2030.

This issue then brings the proposed development of Policy A11 into direct conflict with other areas of the proposed local plan.

Firstly, one of the objectives stated in the proposed plan on page 26 is to:

***“Protect and enhance the character of the area including the Chichester Harbour Area of Outstanding Natural Beauty (AONB), the coastline and the setting of the South Downs National Park;”***

Allowing any development which will have an adverse impact on Chichester Harbour by exacerbating the sewage outflow levels cannot be deemed to be protecting or enhancing Chichester Harbour.

The harbour is designated as both an AONB and a site of special scientific interest. It is afforded the highest status of protection under the National Planning Policy Framework. The local plan itself suggests that the site at Highgrove is not suitable where on page 86 it states:

***“Development proposals will be permitted that demonstrate:***

- a) the development has no adverse impact on the quality of water bodies and groundwater, nor will it prevent future attainment of favourable conservation status, taking into account agreed mitigation measures where necessary;***
- b) the development contributes positively to the water environment and its ecology and does not adversely affect surface and ground water quality;***
- c) no surface water from new development will be discharged to the public foul or combined sewer system;”***

The data would suggest that allowing any houses to be built on the Highgrove site would have an adverse impact on the water environment from foul water overflows which are being routinely used by Southern Water to deal with their inability to cope with the level of wastewater generated for treatment in the area.

The plan does not appear to be consistent with the National Planning Policy Framework (NPPF) which states:

***“20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for:***

***b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);***

There appears to be no strategic policy or plan for the wastewater management challenges which will undoubtedly be exacerbated by the level of proposed development.

## **Argument 2: There is no plan in place to offset the nitrates for the development of policy A11.**

The proposed local plan makes it clear that there is a specific policy for mitigating the impact of nitrates which will be directly applicable to policy A11. This is confirmed on page 93 of the proposed local plan where it states:

***“4.120. In February 2018 the Chichester Harbour designated Site of Special Scientific Interest (SSSI) was downgraded from ‘Unfavourable – recovering’ to ‘Unfavourable – no change’. Further assessment during 2019/20 found that more than 3000ha of the intertidal parts of Chichester Harbour were now ‘Unfavourable – declining’. A specific policy is therefore required to address this issue. Nitrates finding their way into the Harbour (from a variety of sources) cause algal growth which is harmful to wildlife. Although the proportion of total nitrogen originating from new development is very small, it is important that this source is addressed whilst other measures, such as catchment management, are undertaken to reduce other inputs and recover wildlife.”***

The South Downs National Park Authority stated in November 2022, reiterated in December 2022 and wrote again to Chichester District Council in January 2023 that they would not be entering into any further Section 106 agreements at the moment in relation to nitrate offsetting at Chilgrove. They have also stated that they are not able to guarantee whether they will ever be able to guarantee an area for nitrate mitigation as they are restricted by the wishes of the landowner.

The proposed local plan states that to go ahead, developments must be able to demonstrate nutrient neutrality. The development at Highgrove cannot.

***“4.121. To ensure there is no net increase and where possible a net reduction in nutrients to the Harbour, all relevant developments within the Solent catchment, which includes Chichester and Langstone Harbours SPA/Ramsar, will need to demonstrate that they are nutrient neutral, either by their own means or through contributions to an agreed nutrient mitigation scheme, for the lifetime of the development. This requirement applies to residential development, tourist attractions and other development involving an overnight stay. The relevant catchments are identified in advice published by Natural England.”***

The proposed local plan goes on to state on page 55:

***“4.29. Nitrogen discharging into the harbours (from a variety of sources) causes algal growth which is harmful to wildlife. The proportion originating from new development is very low; however overall, nitrogen pollution is having a significant harmful impact upon the Harbour. It is essential that all relevant developments within the catchment of Chichester and Langstone Harbours demonstrate that they are nutrient neutral, either by their own means or through contributions to an agreed nutrient mitigation***

scheme, for the lifetime of the development. Natural England has produced maps of the catchments affected by nutrient neutrality, which are available on the council's website."

The word used in the plan is 'essential' which does not imply that this condition is an optional requirement but a mandatory one. The development proposed in policy A11 cannot demonstrate it will be nutrient neutral.

The lack of provision for offsetting nitrates would put policy A11 into conflict with the NPPF which states:

***"174. Planning policies and decisions should contribute to and enhance the natural and local environment by:***

***e. preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and***

***f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."***

**Argument 3: There is no capacity within the strategic road network to accommodate the development proposed development along the east-west corridor including that proposed in policy A11.**

Within the overall proposed plan, most of the housing allocation is based on developing land along the east-west corridor. In total there are 8717 dwellings proposed for this area. Allocation along the east-west corridor makes up over 84% of the housing allocated in the whole of the proposed local plan.

The proposed local plan acknowledges pre-existing issues with the whole of the SRN in the area, on page 199 where it states:

***"8.3. Road congestion is a major concern for residents and businesses in the plan area; in particular, 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."***

This is an issue that has not been addressed since the last plan was produced in 2014 when mitigation was recognised and proposed as a priority for the area. Only one junction has been improved since 2014 and the impact of the lack of investment in the SRN in the area has exacerbated the congestion. The lack of progress in relation to the SRN mitigation schemes has been acknowledged in the Chichester District Council Local Plan Transport Assessment which was published in January 2023. On page 15 it states:

***"1.3.2 The adopted Chichester Local Plan (LP) 2014-2029, included a set of mitigation measures at the 6 principal junctions along the A27 corridor. Although, there have been works at the Portfield Roundabout in this timeline, no other mitigation schemes have been completed along the A27 corridor, as such the mitigation schemes defined in this report will also be required to consider the development from this plan period."***

The local plan also acknowledges that there is still no guaranteed funding to upgrade the SRN.

***"8.5. In 2021, National Highways confirmed that the A27 Chichester By-Pass major improvement scheme is included in the Road Investment Strategy Pipeline for the period 2025-2030 (RIS3). However, at this stage, funding is not guaranteed and its inclusion or otherwise in the final RIS3 programme will be confirmed at a later date and is dependent on National Highways option development work. Therefore, the council will continue to work with National Highways and WSCC as the Highway Authorities, to***

*progress interim measures which will enable development to take place while a long-term strategic solution is progressed.”*

This suggests there is a real possibility that the modelling for wait times at the Fishbourne Roundabout carried out in the Transport Assessment will become a reality. The peak time waits at this junction from the 2023 Transport Assessment is modelled to be in the region of 29 minutes which is the worst data for the whole of the SRN in the area.

Without mitigation guaranteed, there will be an increase in wait times and engine idling, which will exacerbate pollution levels for the villages of Fishbourne and Bosham.

This would mean that the development proposed along the east-west corridor, including that proposed in policy A11, would be in contradiction to the local plan policy NE20 which on page 94 states:

*“Where development is likely to generate significant adverse impacts by reason of pollution, the council will require that the impacts are minimised and/or mitigated to an acceptable level within appropriate local/national standards, guidance, legislation and/or objectives.”*

There appears to have been no consideration given to how the additional queuing and the pollution which will be generated by this will impact the villages of Fishbourne and Bosham and no suggestion of how this will be mitigated to an acceptable level.

In addition, the proposed local plan would suggest that the development along the east-west corridor, including that proposed in policy A11, is unreasonable because it conflicts with policy NE22, on page 97 which states:

*“Development proposals will be permitted where it can be demonstrated that all the following criteria have been addressed:*

- 1. Development is located and designed to minimise traffic generation and congestion through access to sustainable transport modes, including maximising provision of pedestrian and cycle networks;*
- 2. Development that creates or results in pollution including particulates, dust, smoke, pollutant gases or odour is designed to minimise and mitigate impact on the amenities of users of the site and surrounding environment including wildlife habitats to an appropriate level;”*

With regard specifically to policy A11, the traffic assessment for this proposed development was carried out in 2018 and anticipates that the majority of traffic generated will access the A27 via the Fishbourne Roundabout.

The modelling used to assess the impact of the dwellings proposed was undertaken in December 2018 and is arguably now out of date. The assessment carried out five years ago stated:

*“6.13 As shown in Table 6.2, the A27 Fishbourne Roundabout currently approaches operational capacity in both AM and PM peak hours. In the 2029 future base scenario, the junction is shown to exceed operational capacity with RFC’s in excess of 1.00 during both peak hours.”*

The assessment shows that in 2018 Chichester District Council was aware that the Fishbourne Roundabout was approaching operational capacity. The consultants employed by the developers to carry out the study suggested that the effect of policy A11 on the SRN would be negligible.

National Highways (then Highways England) did not agree with the traffic assessment and considered in their consultation that the Fishbourne Roundabout was already forecast to exceed capacity based on background traffic alone. Highways England further stated that they considered any development trips impacting a junction that is already over capacity to have a severe impact on the strategic road network.

Highways England suggested a mitigation payment of £542,703 but has not suggested how this money will improve the SRN.

This traffic assessment only considered the impact of the one proposed development in policy A11, not of the additional 8417 houses now being proposed along the same A259 route.

A more recent set of data to consider is Chichester District Council's Transport Assessment which was published in January 2023. On page 11 of the Transport Assessment 2023, the Fishbourne Roundabout is identified as the main priority junction on the A27 requiring upgrading.

Chichester District Council's Local Plan Transport Assessment 2023, when considering the overall level of development proposed in the local plan, states:

***"In the baseline scenario without the emerging Local Plan development, a number of junctions already experience capacity issues. This is projected to get worse, when the traffic generation anticipated from the proposed development scenario considered for the Local Plan Review, without mitigation are included."***

Chichester District Council are aware that the Fishbourne Roundabout is now over capacity. They have identified it as the junction most in need of mitigation but there is no certainty that any money will be coming forward to provide that mitigation. However, there are 8717 houses, including those proposed at policy A11, the majority of which are forecast to be reliant on this junction to access the SRN. The proposed local plan is clear that there is no guaranteed mitigation or improvement to the Fishbourne Roundabout or any of the other A27 roundabouts. On page 201 of the proposed local plan, it states:

***"8.12. This is a shift away from the previous approach of 'predict and provide' which forecasts the predicted growth in traffic and provides mitigation based on the forecast growth. The 'monitor and manage' approach is based on identifying a package of potential highway improvements (including enhanced walking, cycling and public transport) which will be implemented following a monitoring process that will define the actual demand on the network and the requirement for the schemes. The reason for this approach is that the full cost of the A27 junction improvements cannot be funded through contributions from new development alone and no additional funding sources have been identified. Fishbourne Roundabout with the Terminus Road Link is estimated at between £9.5 and £12.9 million, and Bognor Road Roundabout with the Vinnetrow Road Link is estimated at between £19.4 and £30.4 million."***

The level of development proposed in the plan for the east-west corridor, including policy A11 is not consistent with National Policy. The NPPF states:

***"110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:***

***d) any significant impacts from the 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 addition, the proposed local plan does not appear to be consistent with the NPPF where it states:

***"20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for:***

***b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);***

There is no guaranteed plan in place for infrastructure for transport.

**Argument 4: The proposed allocation of the site in policy A11 does not correlate with the plan for sustainable transport due to there being no primary school allocation on the site.**

The proposed local plan on page 40 states:

*“3.35. The settlement hierarchy has been defined in relation to the presence of certain services and facilities. The list of services and facilities considered included:*

- *Convenience stores;*
- *Primary schools; “*

We have addressed the additional strain policy A11 will have on convenience stores in argument 6 but the second area to consider is listed in the plan as the provision of primary schools. There is no primary school proposed on the site and the village site is at capacity without the land to expand. The local primary schools in the area are all at capacity. The schools West Sussex County Council have identified for the proposed development are in the Bourne area. These include:

Compton and Up Marden (10.9 miles)  
Funtington Primary (3 miles)  
Thorney Island (5.6 miles)  
Westbourne (6.6 miles)  
Southbourne (3.9 miles)  
Chidham (2.4 miles)

Only Bosham and Chidham Primary are within walking distance and neither Bosham nor Chidham currently have spaces or space to expand.

The other schools proposed are too far away to walk and are mostly rural with poor public transport links. This will likely mean reliance on private cars to transport children to school. This contradicts the proposed aims of the local plan on page 200 which states:

*“8.8. Increasing the capacity of the road network is key to supporting growth in the Local Plan. However, there is also a need to reduce demand for road transport to achieve net zero in greenhouse gas emissions by 2050 as highlighted in the council’s Climate Emergency Action Plan and Strategic Objective 1. In aiming to achieve the ambitions of the action plan, all development is expected to demonstrate how it will support three key objectives to create an integrated transport network which will alleviate pressure on the road network, improve highway safety, encourage sustainable travel behaviours and help reduce transport related impact on air quality, by:*

- 1. Avoiding or reducing the need to travel by car;*
- 2. Enabling access to sustainable means of travel, including public transport, walking and cycling;*
- 3. Mitigating the impacts of travel by car.”*

Residents have expressed concern about congestion the development is likely to cause based on 300 additional cars being used to transport children to school and this is acknowledged in the plan. The proposed plan on page 199 states:

*“8.3. Road congestion is a major concern for residents and businesses in the plan area; in particular, 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.”*

This proposed development without a primary school is not avoiding or reducing the need to travel by car and will increase reliance on private cars and exacerbate congestion and nor can this choice of schools for



the proposed site be argued to enable access to sustainable means of travel, including public transport, walking or cycling as the schools proposed are mainly in rural areas without public transport links and too far to make walking or cycling viable alternatives.

The development proposed in policy A11 appears to be inconsistent with the NPPF which states:

***“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:***

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and***
- b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”***

Planning a development of the size proposed in policy A11 whilst knowing that there is no capacity because of the land constraint to expand the schools within walking distance, means that children will have to travel far out of the village for education provision. This is a key issue which does not appear to have been resolved before the application was submitted.

**Argument 5: The site proposed at policy A11 is unsuitable as it is at risk of flooding and appropriate flood risk assessments have not been undertaken.**

The National Planning Policy Framework states,

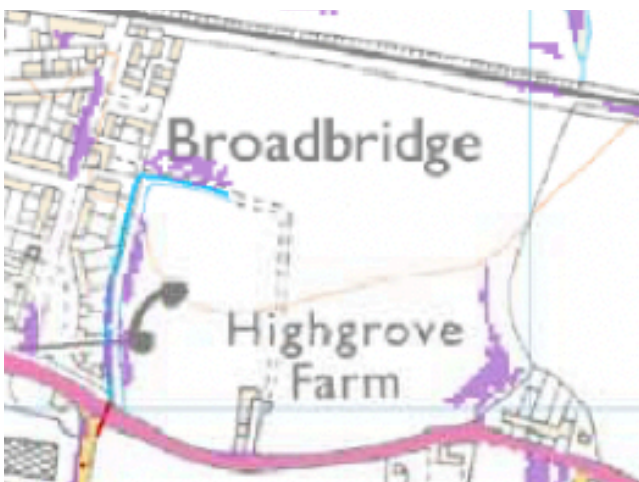
***“160. Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.”***

This approach is confirmed in the proposed local plan which states on page 24:

***“2.32. All proposals for new development should be considered in the context of a climate emergency. In the Chichester plan area, the likelihood of sea level rise and increased risk of flooding is a key consideration, alongside other impacts such as higher temperatures, water scarcity and more extreme weather events. Flood risk will be considered using the council’s latest Strategic Flood Risk Assessment together with any more recent information from the Environment Agency.”***

The unsuitability of the site for policy A11 has been highlighted by the Environment Agency (EA) in their report titled, ‘Flood Risk Assessment Part 02 of 03 (Appendix 5)’

***“Our mapping indicates that this site is at risk of surface water flooding.”***



and WSCC Lead Flood Authority. The document on the planning portal titled, ‘Updated Consultation Response - WSCC Lead Local Flood Authority - 20.04.21’ states:

***“The area of the proposed development is shown to be at high risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.”***

The surface water flooding risk can be seen on the Bosham 'Wet Spot' map (relevant portion showing the proposed site of policy A11 below) This map has been agreed upon between the Environment Agency and WSCC Lead Flood Authority and suggests that the site has several areas which are at risk of surface water flooding. The purple patches on the maps are areas identified as at risk of surface water flooding. There is concern from local residents that this development will exacerbate the risk of flooding to the estate which abuts this proposed development.

The purple patch in the northwest area of the established development is a road called Brooks Lane which Chichester District Council are aware is prone to flooding.

Dev Comms held a Drainage Working Group Meeting on 28th October 2019 and in the document on the portal titled, 'Drainage Working Group Feedback 28 October 2019 6 pm to 7:30 pm they have stated:

***"Brooks Lane has historically flooded adjacent to Barnside and further south. Surface water flows from the north of the site, under the railway and onto the site."; and***

***"Walton Lane often floods, and the proposed development must not increase flood risk along Walton Lane or elsewhere."***

The National Planning Policy Framework makes it clear that the building of new developments should not increase the risk of flooding at established developments or infrastructure:

***"164. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:***

***a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and***

***b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.***

***165. Both elements of the exception test should be satisfied for development to be allocated or permitted."***

Chichester District Council has suggested that they will mitigate the flood risk with the installation of a SuDs system. This is something they have never used before and have no experience in developing and maintaining.

Additionally, there appears to be no end-user identified to maintain and service these SuDs. The developers have suggested that they will offer them to Southern Water for adoption, but there has been no response from Southern Water confirming that the site is suitable for SuDs or that Southern Water will adopt and maintain the system.

Furthermore, consideration relating to the depth of SuDs needed for this development does not appear to have been considered. SuD systems pose the risks that are associated with deep water. They appear to have been integrated into public open spaces on the latest plans submitted by the developers and the potential risks this poses do not appear to have been assessed.

Finally, the placement of the SuDs basins on the most recent plans submitted by the developers shows all of the drainage basins at the front of the proposed development. Southern Water is already having to rely on outflows to accommodate the water generated by Bosham (see Argument 1 above). If there is no capacity to accommodate the water generated from the development in the SuDs, this poses a potential flood risk to the A259 which would be classed as essential transport infrastructure as defined by the National Planning Policy Framework and therefore cannot be allowed to flood.



## **Argument 6: The whole allocation of housing in Policy A11 is outside of the Bosham settlement boundary.**

On page 42 of the proposed local plan, it says there is a presumption in favour of sustainable development within settlement boundaries. This presumption does not apply here because the Highgrove site is fully outside the settlement boundary. This page of the proposed plan goes on to state:

*“Development in the Rest of the Plan area outside the settlements listed above is restricted to that which requires a countryside location or meets an essential local rural local need or supports rural diversification in accordance with Policy NE10.”*

On page 66 of the proposed plan, it states:

*“4.50. Areas outside settlement boundaries are defined as ‘countryside’ which includes villages, hamlets, farms and other buildings as well as undeveloped open land. In order to protect the landscape, character, quality and tranquillity of the countryside it is essential to prevent inappropriate development. However, it is also important to recognise the social and economic needs of rural communities and to provide support to enable those who manage, live and work in the countryside to continue to do so.”*

There is a strong argument that this development is inappropriate. There has been a huge amount of local public opposition to this site being chosen and the proposed development does nothing to improve the social and economic needs of the rural community. It increases the size of the village by over 25% and is likely to be detrimental to the elderly residents who rely on the shopping facilities as there is no increase in convenience shopping.

In addition, it can be argued that there is no further need for social space in the community as we have three community halls within walking distance and three public houses. During the local consultation, which was well attended by local residents, there was a definite request not to include allotment spaces which has been ignored by the developers.

The proposed local plan also states on page 66:

*“4.52. To support a prosperous and diverse rural economy, some limited and carefully planned development outside settlement boundaries may be acceptable to enable the countryside and local rural communities to evolve and thrive.”*

This proposed development could not be considered ‘limited’ and is not protecting the landscape or character of Bosham.

### **Key for document quotations used:**

*Blue = Proposed local plan references*

*Red = National Planning Policy Framework references*

*Green = Chichester District Council transport Assessment January 2023*

*Orange = documents used in consultations in relation to policy A11 (Highgrove)*