



Library Ref: MIQ02

Havant Borough Local Plan Examination Statement

Matter 1: Legal Requirements

Havant Borough Local Plan Examination Statement

Matter 1: Legal Requirements

This statement has been produced as part of the examination of the Havant Borough Local Plan. It answers the Inspectors' questions relating to matter 1.

Any queries about the report should be sent to the programme officer:

Address: Ms Charlotte Glancy
Banks Solutions
80 Lavinia Way
East Preston
West Sussex
BN16 1DD

Email bankssolutions@gmail.com

Telephone 01903 776601

Website: <https://www.havant.gov.uk/local-plan-examination>

Matter 1: Legal Requirements

Contents

Duty to co-operate	1
1.1 Has the Plan been prepared in accordance with the Duty to Co-Operate imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended), particularly with regard to (but not limited to) any unmet housing need in the Partnership for South Hampshire area.	1
Statement of community involvement.....	3
1.2 Has the Plan been prepared in accordance with the Council’s Statement of Community Involvement at the relevant time and met the minimum consultation requirements in the 2012 Regulations?	3
Sustainability appraisal	5
1.3 Has the Plan’s formulation been based on a sound process of SA in accordance with the regulations and relevant guidance, including the testing and/or consideration of reasonable alternatives for all policies in the Plan?	5
Local development scheme	7
1.4 Has the Plan been prepared in accordance with the Council’s Local Development Scheme?	7
Climate change	7
1.5 Does the Plan include sufficient policies designed to secure the development and use of land that contributes to the mitigation of, and adaptation to, climate change?	7
Other matters	8
1.6 The Plan does not state which policies of the existing development plan will be replaced. Please can the Council provide this information.	8

Duty to co-operate

1.1 Has the Plan been prepared in accordance with the Duty to Co-Operate imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended), particularly with regard to (but not limited to) any unmet housing need in the Partnership for South Hampshire area.

1. Yes, the Plan has been prepared in accordance with Section 33A of the Planning & Compulsory Act 2004 (as amended) which places a legal duty on local planning authorities, county councils and prescribed public bodies to work together on strategic cross boundary matters, including unmet housing need (as set out in the Duty to Cooperate Statement (CD26)).
2. The Partnership for Urban South Hampshire (PfSH)¹ (formerly the Partnership for Urban South Hampshire (PUSH)) has provided the main mechanism for cross boundary working throughout the plan's preparation. Key to this has been the publication of the 2016 Spatial Position Statement (SPS) (EB40) which provides a framework for housing need and distribution across the sub-region. Though not part of the development plan, it is recognised that the SPS forms a significant part of the statutory duty to cooperate that the Councils have with one another (SCG05, para 7 and SCG09, paras 2.1, 2.11).
3. The SPS (EB40) considers the capacity of different areas within PfSH to accommodate housing (para 5.23) and plans for the vast majority of development needs up to 2034². This should inform Local Plans where there is the ability to meet unmet need from the relevant housing market area provided it is practical to do so. It also recognises that Portsmouth City is not able to meet the scale of its housing need (EB40, para 5.16). It is also worth noting the 2016 SPS pre-dated the standard method for calculating local housing need, and there is a subsequent need to update the strategy to take higher levels of housing need into account.
4. The issue of planning for unmet needs (and increased level of housing need resulting from the standard method) is now part of the work to develop a new Joint Strategy and the work programme set out by the PfSH Statement of Common Ground (SCG09, para 3.40). This indicates that Portsmouth has an identified shortfall of 669 homes between 2020-2036 (Table 14, page 16)³ when taking supply into account.

¹ The Partnership for South Hampshire membership is comprised of Hampshire County Council, Portsmouth City Council, Southampton City Council, Eastleigh Borough Council, East Hampshire District Council (part of), Fareham Borough Council, Gosport Borough Council, Havant Borough Council, New Forest District Council, New Forest National Park Authority (part of), Test Valley Borough Council (part of) and Winchester City Council (part of).

² With a shortfall of 6,300 dwellings or 6.5% on the mainland.

³ The Council's Sustainability Appraisal of the 2019 Pre-Submission Local Plan (CD10, para 3.18) previously referred to a shortfall in Portsmouth City of 4,760 dwellings between 2016 to 2036. Portsmouth City Council's representation (R224 C02) to the 2019 Local Plan consultation subsequently referred to a shortfall of 2,800 homes (over the same plan period).

5. In 2019, there was broad agreement that it would be possible for Havant to contribute towards Portsmouth's unmet need (as set out in the Council's SoCG with Portsmouth (SCG04a). However, this was in the context of Havant borough's anticipated buffer of 971 homes, but due to the unavoidable delay in submitting the Plan this has been reduced to no more than 340 homes (CD01, para 2.49).
6. It is common ground that Havant Borough Local Plan has maximised the potential for housing delivery within Havant Borough as far as sustainable development can still be achieved, and it would be unlikely that any buffer could be considered as contributing towards Portsmouth City's unmet housing need (SCG05, para 20). This is set out in the respective bi-lateral statements between the Council and the rest of the PfSH authorities (SCG05, para 20), and the Council and Portsmouth City Council (SCG04 and SCG04a, paras 11 & 12 in both)
7. The PfSH Statement of Common Ground (SCG09) confirms that options to address this unmet need will be considered in the formulation of the Joint Strategy, which will include the identification of further Strategic Development Opportunity Areas (paras 3.39-3.41) to determine the most sustainable locations to accommodate this growth.
8. Outside of Hampshire, the Council has engaged with the South Downs National Park Authority (SDNPA) and Chichester District Council (CDC). The Council's Statement with CDC confirms that that neither party is looking towards the other to provide for any unmet need (SCG13, paras 14 and 15). In terms of SDNPA, unmet housing need was not highlighted in their 2019 representations, nor in their Statement of Common Ground with the Council (SCG06).
9. On this basis, the Council considers that the Plan has been prepared in accordance with the Duty to Co-Operate imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended).

Statement of community involvement

1.2 Has the Plan been prepared in accordance with the Council's Statement of Community Involvement at the relevant time and met the minimum consultation requirements in the 2012 Regulations?

10. Regulations 18 and 19 of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) are considered the relevant regulations. Regulation 18 requires engagement with certain key stakeholders (specific consultation bodies), including Government agencies and neighbouring local planning authorities. This needs to take place as the plan develops, prior to it being finalised. Regulation 19 requires that stakeholders are notified of the publication of the Local Plan and provided with at least a six week period in which to comment on its legal compliance and soundness.
11. The 2013 Statement of Community Involvement (SCI) (CD28) was in place for the majority of the plan's preparation, particularly at Regulation 18. Community involvement methods are set out in table 1 on pages 6-8 of that document, with overall principles of community involvement set out in section 2. Table 1 and paragraphs 2.2-2.5 of the 2019 SCI (CD21) contain the equivalent information.
12. The Council has set out in the letter of 11 May 2021 (CR10) a number of key details of the consultation and engagement which took place and how that relates to the methods set out in Table 1.2 of the 2013 SCI. The methods of consultation which were used at Regulation 18 are set out more fully in the Consultation Statement (CD22), particularly paragraphs 2.4 and 3.3. This confirms the relevant bodies were notified, which is the principal requirement of the regulations. A large number of additional outreach methods were also used. Overall, there was clear compliance with Regulation 18.
13. Paragraphs 2.10-2.16 and 3.8-3.10 of CD22 summarise the issues that were raised through consultation and how the local plan responds to those. They are detailed in Appendices 1-4. In particular, Appendix 4 sets out on a policy-by-policy basis how it is considered the pre-submission plan should respond to the representations received.
14. Turning to the 2019 Regulation 19 consultation, letter CR10 (paragraphs 7-9) sets out how the Statement of Community Involvement was complied with during the 2019 Regulation 19 consultation. This is set out more fully in the Pre-Submission Consultation Summary (CD17), particularly paragraphs 1.11 – 1.13.
15. For the 2020 Regulation 19 consultation, letter CR10, specifically paragraphs 13-18 sets out how The Council undertook consultation during the pandemic in line with the regulations. Paragraphs 1.7-1.8 of the Pre-Submission Consultation Summary Addendum (CD19) further elaborates on this topic.
16. In terms of the regulatory requirements, The Council can confirm that the plan was always available in line with Regulation 35. Notifications were issued for both consultations in accordance with Regulation 19. Paragraphs 16-18 of CR10 address how the Council accommodated the changes to that regulation as a result of the Covid 19 pandemic. The Statements of Representation Procedure are available at appendix 1 of CD17 and CD19.

This was made available in line with Regulation 35 and included in all of the notifications that were issued for the consultation.

17. Overall, as set out in letter CR10, the Council considers that the Statement of Community Involvement has been followed at every stage of the plan's preparation. The Council also considers that the methods used fully comply with, and indeed exceed, the requirements of the regulations. At each stage of the plan's preparation, significant effort and resources were put into making sure that there was high quality outreach and consultation.

Sustainability appraisal

1.3 Has the Plan's formulation been based on a sound process of SA in accordance with the regulations and relevant guidance, including the testing and/or consideration of reasonable alternatives for all policies in the Plan?

18. Yes. The Local Plan has been subject to extensive and soundly based Sustainability Appraisal (SA) at every stage of its production, including the early Regulation 18 stages, in accordance with regulations and relevant guidance.
19. SA reports for the formal preparation stages of the plan have been submitted and document that process (CD10, CD11, CD12). Chapters 1 'Introduction', 2 'Methodology' and 3 'What has the Plan Making / Sustainability Appraisal Involved up to this Point?' of CD10 in particular set out how requirements have been met. The SA reports have been subject to consultation alongside the Local Plan, and none of the statutory consultation bodies for SA (Natural England, the Environment Agency and Historic England) have made any adverse comments on the process, methodology or content of the reports.
20. The regulations and guidance on SA require reports to identify, describe and evaluate the likely significant effects on the environment of implementing the plan and of reasonable alternatives taking into account the objectives and the geographical scope of the plan. The report should provide conclusions on the reasons the rejected options are not being taken forward and the reasons for selecting the preferred approach in light of the alternatives.
21. The Council has focussed explicit discussion of alternatives on the Local Plan development strategy (see chapter 3 of CD10), with the preferred strategy being identified through that process. The policies in the plan which deliver that strategy (both allocations and thematic policies) were then subject to SA in order to assess their sustainability impacts (see chapter 4 and detailed Appendices of CD10).
22. The SA tables for each policy in the SA report document the assessment of the proposed policy. The report also explains the evolution of the policy, thereby covering alternative versions as the policy developed. Where possible, earlier alternative drafts were rejected and refined to increase positive sustainability effects of policies. Any policies rejected from inclusion in the plan due to predicted negative effects are also highlighted at the end of each assessment table (see for example p.422 of CD10).
23. Similarly, later SA reports (CD11 and CD12) were prepared to check the sustainability of the changes to the plan. At this stage, the development strategy was well developed and only changes to a limited number of policies were being considered to address comments received at the 2019 Regulation 19 consultation, together with necessary factual updates to policies, with no real alternatives being considered. For example, the new policy to address water quality impact on the protected sites had to be included and the content was determined by the evidence base and collaborative working with Natural England.
24. Overall, the Council considers that all the policies in the Local Plan have been fully assessed for their sustainability impact and improved as a result of these assessments. That process is documented in the suite of SA reports (CD10 to CD12). The statutory

consultation bodies for SA have raised no concerns with the way SA has been carried out. The Council considers that the process has helped to produce a sound plan that is legally compliant.

Local development scheme

1.4 Has the Plan been prepared in accordance with the Council's Local Development Scheme?

25. The Local Plan has been prepared in accordance with the Local Development Scheme (CD25). The LDS has been revised regularly at each stage of the local plan process to provide the most up to date timetable for the adoption of the Local Plan.

Climate change

1.5 Does the Plan include sufficient policies designed to secure the development and use of land that contributes to the mitigation of, and adaptation to, climate change?

26. Yes, the Sustainability Appraisal framework used to assess the Local Plan contains a number of Objectives relating to the sustainability theme of climate change (Objectives 4,5 and 11 – see table 2.3 of the SA report CD10), with Objective 4 being the most explicit: 'To Promote and support climate change mitigation and adaptation through reducing Havant's greenhouse gas emissions from all sources and plan for anticipated levels of climate change'. The summary tables in chapter 4 of the SA report show that all the policies and allocations taken forward into the plan have either a neutral or positive effect on this objective.
27. Rather than having a single policy focussed on mitigating and adapting to climate change, the Local Plan (CD01) contains policies which contribute to the mitigation of, and adaptation to climate change. The following list are some examples of policies within the Local Plan which contribute to addressing climate change mitigation and adaptation:
- E4 | Development on the Coast
 - E12 | Efficient Use of Resources and Low Carbon Design
 - E14 | The Local Ecological Network
 - E15 | Protected Species
 - E18 | Trees, hedgerows and woodland
 - E19 | Managing flood risk in new development
 - E20 | Drainage Infrastructure in new development

Other matters

1.6 The Plan does not state which policies of the existing development plan will be replaced. Please can the Council provide this information.

28. The development plan currently consists of:

- Havant Borough Local Plan (Core Strategy) (www.havant.gov.uk/local-plan-core-strategy)
- Havant Borough Local Plan (Allocations Plan) (www.havant.gov.uk/local-plan-allocations)
- Hampshire Minerals and Waste Plan (<https://www.hants.gov.uk/landplanningandenvironment/strategic-planning/hampshire-minerals-waste-plan>)

29. In addition, the Emsworth Neighbourhood Plan is scheduled for referendum on 8 July 2021 so at the point of adoption of the Havant Borough Local Plan may well form part of the development plan.

30. It is intended as part of adopting the Havant Borough Local Plan, the Havant Borough Local Plan (Core Strategy) and the Havant Borough Local Plan (Allocations Plan) would be revoked in their entirety.

